

Policy on Harassment and Non-Discrimination

Adopted by the Board of Trustees on June 5, 2015; Amended by the Board of Trustees on August 14, 2020

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1. OVERVIEW

1.1. Purpose and Scope of this Policy. ¹ Lehigh University upholds *The Principles of Our Equitable Community* (see Appendix A) and is committed to providing an educational, working, co-curricular, social, and living environment for all students, staff, faculty², trustees, contract workers, and visitors that is free from harassment and discrimination on the basis of age, color, disability, gender identity or expression, genetic information, marital or familial status, national or ethnic origin, race, religion, sex, sexual orientation, or veteran status³. Such harassment or discrimination is unacceptable behavior and will not be tolerated.

The University strongly encourages (and, depending upon the circumstances, may require) students, faculty, staff or visitors who experience or witness harassment or discrimination⁴, or have information about harassment or discrimination in University programs or activities, to immediately report such conduct as more specifically provided in Section 4 of this Policy.⁵ Reports should be made to:

¹ Section 1.1 of this Policy shall be distributed in languages other than English, as necessary.

² All references to “faculty” throughout this Policy include adjunct faculty.

³ Although the scope of this Policy does not include social class or socioeconomic status as protected characteristics, using social class or socioeconomic status as a pretext (i.e., a reason to justify a course of action that is not the real reason) for harassment or discrimination based upon national origin, race, sex or another protected characteristic is prohibited.

⁴ It is important to note that harassment, discrimination, and other conduct prohibited by this Policy is deemed *perceived* or *alleged* until such time as an investigation is complete and a determination has been made that such conduct has occurred.

⁵ Section 4 of this Policy requires staff, faculty, administrators, teaching assistants, graduate assistants, research assistants, gryphons and other designated University representatives to immediately report incidents of harassment, discrimination (including incidents of gender violence or sexual misconduct), or other conduct prohibited by this Policy, that are brought to their attention by student(s) or that are reported to them or witnessed by them involving student(s), staff, faculty and administrators who serve in a supervisory role at the University are also required to immediately report incidents of harassment, discrimination (including incidents of gender violence or sexual misconduct), or other conduct prohibited by this Policy, that are brought to their attention by any member of the University community including visitors.

Equal Opportunity Compliance Coordinator⁶
Alumni Memorial Building, (610) 758-3535,
EOCC@lehigh.edu

In the event that the conduct involves the Equal Opportunity Compliance Coordinator⁷ or there is a reasonable concern about a potential conflict of interest or bias, reports should be made to:

Associate Vice President, Human Resources
306 S. New Street, Suite 437, (610) 758-3900, inhro@lehigh.edu

The University takes steps to ensure that a hostile environment on these bases does not exist on its campus or in its programs and activities and to respond effectively to formal and informal allegations of harassment or discrimination. The University will promptly investigate such complaints or incidents and will take prompt and appropriate measures, including disciplinary action, against individuals found to have violated this Policy. Lehigh University will take action reasonably designed to end a hostile environment if one has been created, prevent its recurrence, and, when appropriate, take steps to remedy its effects on individuals and the campus community. The University encourages students and employees to work together to prevent harassment and discrimination in any University program or activity, including all academic, extra-curricular, and University-sponsored activities.

1.2. Title IX Coordinator.⁸ The Equal Opportunity Compliance Coordinator serves as the Title IX Coordinator, ADA/504 Coordinator, and the Age Act Coordinator, and oversees implementation of the University's Affirmative Action plan, disability compliance, and the University's Policy on Harassment and Non-Discrimination. The Title IX Coordinator has the primary responsibility for coordinating the University's efforts related to the intake, investigation, resolution, and implementation of supportive measures to stop, remediate, and prevent discrimination, harassment, and retaliation prohibited under this Policy.

⁶ The Equal Opportunity Compliance Coordinator will be referred to as the Equal Opportunity Compliance Coordinator, Title IX Coordinator, and/or EOCC interchangeably throughout this Policy.

⁷ Whenever an official University title is named throughout this Policy, the official's designee may act in the official's stead.

⁸ As previously stated, the Title IX Coordinator will be referred to as the Title IX Coordinator, Equal Opportunity Compliance Coordinator, and EOCC interchangeably throughout this Policy.

The Title IX Coordinator acts with independence and authority free from bias and conflicts of interest. The Title IX Coordinator oversees all resolutions under this Policy and these procedures. The individuals involved with these procedures pursuant to this Policy (which includes investigators, facilitators of Informal Resolution processes, decision-makers, appeal panels, and advisors provided by the University) are vetted and trained to ensure they are not biased for or against any party in a specific case, or for or against complainants and/or respondents, generally.

To raise any concern involving bias or conflict of interest by the Title IX Coordinator, contact the Associate Vice President, Human Resources, 306 S. New Street, Suite 437, at 610-758-3900 or at inhro@lehigh.edu. Concerns of bias or a potential conflict of interest by any other individual involved in these procedures should be raised with the Title IX Coordinator.

Complaints or reports of alleged misconduct or discrimination committed by the Title IX Coordinator should be reported to the Associate Vice President, Human Resources, 306 S. New Street, Suite 437, at 610-758-3900 or at inhro@lehigh.edu. Complaints or reports of alleged misconduct or discrimination committed by any other individual involved in these procedures should be reported to the Title IX Coordinator.

1.3. Education and Prevention. The University provides education about discrimination, harassment and other conduct prohibited by this Policy, through various means including orientation programs for new students and employees, on-line training, and follow-up programs for students, staff, faculty, and administrators. Individuals in a supervisory capacity may participate in additional training opportunities to assist with implementing this Policy and related policies. They will inform people under their direction of this Policy and assume leadership in implementing the procedures.

1.4. Academic Freedom. Lehigh University upholds the principles of academic freedom and free speech as stated in Rule 2.1.1 of the Rules and Procedures of the Faculty of Lehigh University, accessible at <http://www.lehigh.edu/~inprv/faculty/rules.html>.

1.5. Standing Committee. The University has formed, and will maintain, a standing committee known as the Council for Equity and Community (or such other agreed upon name) ("CEC") comprised of faculty, administrators, staff and students. The CEC will, among other things, work in collaboration with the Equal Opportunity Compliance Coordinator, the Vice Provost for Academic Diversity and other designated offices or individuals to provide increased attention and focus to issues related to diversity, equity and inclusion and campus climate at Lehigh and the

means to address them in a systematic and coordinated manner. The CEC will report directly to the President of the University with oversight from the Board of Trustees Subcommittee on Diversity and Inclusion.

1.6. Coordination with Related Policies. In addition to this Policy, which addresses harassment, discrimination, and other prohibited conduct, Lehigh has related policies pertaining to students that should be consulted in conjunction with this one.

1.6.1. The Student Conduct System Policy, also known as the Student Code of Conduct, can be found in the Student Handbook as well as on Lehigh's website at: [Student Conduct System Policy](http://studentaffairs.lehigh.edu/content/code-conduct) or at <http://studentaffairs.lehigh.edu/content/code-conduct>. The Student Conduct System Policy sets forth Lehigh's judicial process for resolving reported incidents of harassment (including sexual harassment), discrimination, or other prohibited conduct involving students.

1.7. Standard of Review. Lehigh University utilizes the *preponderance of the evidence* standard⁹ of review and proof in investigating and resolving complaints of harassment (including sexual harassment), discrimination, and other conduct prohibited by this Policy.

1.8. Glossary¹⁰

1.8.1. **Advisor.** A person chosen by a party or appointed by the University under Section 5 of this Policy to accompany the party to meetings related to the resolution process, to advise the party on that process, and to conduct cross-examination for the party at the hearing, if any.

1.8.2. **Appeal Panel.** Those who have appellate authority within the University's Formal Grievance Process as outlined in Section 5.6.3.

1.8.3. **Complainant.** An individual who is alleged to have been subject to harassment (including sexual harassment), discrimination, or other prohibited conduct.

⁹ The *preponderance of the evidence* standard means that it is "more likely than not" or there is a greater than 50 percent chance that harassment or discrimination has occurred. This standard requires a much lower level of proof than the *beyond a reasonable doubt* standard used for criminal matters.

¹⁰ The definitions as stated in this Section are applicable to these terms as they are used throughout the entirety of this Policy, regardless of capitalization.

1.8.4. **Complaint.** An oral or written account of an incident of harassment, discrimination, or other prohibited conduct, which may be resolved formally or informally under Section 6 of this Policy.

1.8.5. **Decision-maker.** Those who have decision-making and sanctioning authority within the University's Formal Grievance Process as outlined in Section 5.6.3.

1.8.6. **Facilitator.** A faculty or staff member who has received relevant annual training and has been selected by the Title IX Coordinator to facilitate an Informal Resolution process.

1.8.7. **Formal Complaint.** A document filed/signed by a complainant or signed by the Title IX Coordinator alleging harassment or discrimination based on a protected class or retaliation for engaging in a protected activity against a respondent and requesting that the University investigate the allegation pursuant to Section 5 of this Policy.

1.8.8. **Formal Grievance Process.** The process established in Section 5.6.3 of this Policy, a method of formal resolution designated by the University to address conduct that falls within the definition of Sexual Harassment as defined below, and which complies with the requirements of 34 CFR Part 106.45 (Title IX regulations).

1.8.9. **Grievance Process.** The processes established in Sections 5.6.3 (Formal Grievance Process) and 6.3 (Formal Resolution) which are disciplinary methods designated by the University to address conduct within the definitions of prohibited conduct under this Policy.

1.8.10. **Investigator.** The person or persons charged by the Title IX Coordinator with gathering facts about an alleged violation of this Policy, assessing relevance and credibility, synthesizing the evidence, and compiling this information into an investigation report and file of directly related evidence.

1.8.11. **Notice.** When the Title IX Coordinator becomes aware of a report, complaint or formal complaint containing allegations of harassment, discrimination, and/or retaliation that requires a response by the University.

1.8.12. **Parties.** The complainant(s) and respondent(s), collectively.

1.8.13. **Report.** An oral or written account of an incident of harassment, discrimination, or other prohibited conduct provided to the

Equal Opportunity Compliance Coordinator by an employee, student, or third-party.

1.8.14. **Respondent.** An individual who has been reported to be the perpetrator of conduct that could constitute harassment (including sexual harassment), discrimination, or other prohibited conduct.

1.8.15. **Support Person.** A current full-time employee or student of the University chosen by a party under Section 6 of this Policy who may accompany a party to meetings or interviews related to the resolution process and to support that person through that process.

1.8.16. **Title IX Coordinator** is at least one official designated by the University to ensure compliance with Title IX and the University's Title IX program. References to the Title IX Coordinator throughout this Policy may also encompass a designee of the Title IX Coordinator for specific tasks.

2. PROHIBITED CONDUCT

Conduct prohibited by this Policy may occur in any University program or activity, such as in the workplace, online, at a University-sponsored athletic event or in a residence hall or classroom. In cases involving students, and in accordance with the [Student Conduct System Policy](#), also accessible at <http://studentaffairs.lehigh.edu/content/code-conduct>, prohibited conduct shall not be limited to conduct that occurs on Lehigh University premises.

When the respondent is a member of the University community, a grievance process may be available regardless of the status of the complainant, who may or may not be a member of the University community. This community includes, but is not limited to, students,¹¹ student organizations, faculty, administrators, staff, and third parties such as guests, visitors, volunteers, invitees, and campers. The procedures in Sections 5 and 6 below may be applied to incidents, to patterns, and/or to the campus climate, all of which may be addressed and investigated in accordance with this Policy.

2.1. **Discrimination.** Discrimination occurs when a member of the Lehigh community (employee, student, applicant for employment, or applicant for admission) or a visitor is subject to negative or adverse treatment, based on one or more of the protected characteristics set forth

¹¹ For the purpose of this policy, the University defines "student" as any individual who has accepted an offer of admission, or who is registered or enrolled for credit or non-credit bearing coursework, and who maintains an ongoing relationship with the University.

in Section 1.1 above, that denies or limits the individual's ability to obtain educational benefits or interferes with the work environment.

2.1.1. Examples of discrimination include a faculty member giving a student a lower grade because of the student's race, a staff person receiving a negative performance review based on gender identity or expression, or a student with a disability who does not receive approved academic accommodations.

2.2. **Harassment.** Harassment constitutes a form of discrimination that is prohibited by this Policy. It is unwelcome conduct by any member or group of the University community on the basis of one or more protected characteristics set forth in Section 1.1 above. Harassment can rise to the level of creating a hostile environment.

2.2.1. Hostile or Offensive Environment. A hostile or offensive work, learning, co-curricular, social or living environment occurs when a member of the University community or a visitor is subjected to unwelcome statements, jokes, gestures, pictures, touching, or other conduct that offends, demeans, harasses, or intimidates and is based on one or more of the protected characteristics set forth in Section 1.1 above. Harassment includes offensive verbal or physical conduct or text or graphic communication including through social media that has the purpose or effect of interfering with an individual's work or educational performance, or has the purpose or effect of creating an intimidating, hostile, or offensive environment. The violating conduct may involve a single serious and offensive act, or may involve persistent harassing behavior. A hostile environment can be created by supervisors, co-workers, faculty, coaches, students, alumni, or visitors to campus such as vendors and contractors.

2.2.1.1. Examples of a serious act. An isolated comment or incident usually does not create a hostile work or educational environment. The exception is if the incident is a serious act, such as 1) an intentional, non-consensual touching of an intimate body area of another person; 2) an instructor humiliating a student in class by making a joke about the student's disability; or 3) a student marking Nazi swastikas or writing a racial epithet on a fellow student's door.

2.2.1.2. Examples of persistent harassing behavior. A hostile work or educational environment may be created when a person fails to stop a behavior that a reasonable person would find hostile or abusive particularly after they have been asked previously to stop the behavior. Examples: 1) students in a class ask a teaching assistant not to tell jokes targeted at individuals of a particular race, national origin or sexual orientation, but

she or he continues to do so; or 2) an employee asks a supervisor not to touch him or her, but the supervisor continues to do so.

2.2.1.3. **Stereotyping.** Statements that demean people on the basis of one or more of the protected characteristics set forth in Section 1.1 above can also contribute to a hostile work or educational environment. For example, it would be sex stereotyping to ask a man or a woman why he or she is majoring in a discipline such as English, Engineering, or Finance on an assumption that people of a particular gender cannot succeed in the area. Another example of stereotyping would be to ask an older colleague when they are planning to retire. Both of these isolated questions are not harassment by themselves, but can contribute to a hostile environment.

2.3. **Sexual Harassment.** Sexual Harassment is a specific form of harassment that includes the offenses of sexual harassment, sexual assault, domestic violence, dating violence, and stalking, and is defined as:

2.3.1. Conduct on the basis of sex that satisfies one or more of the following:

a. Quid Pro Quo:

- 1) an employee of the University,
- 2) conditions the provision of an aid, benefit, or service of the University,
- 3) on an individual's participation in unwelcome sexual conduct; and/or

b. Sexual Harassment:

- 1) unwelcome conduct,
- 2) determined by a reasonable person,
- 3) to be so severe, and
- 4) pervasive, and,
- 5) objectively offensive,
- 6) that it effectively denies a person equal access to the University's education program or activity.¹²

c. Sexual Assault:

¹² Unwelcomeness is subjective and determined by the complainant (except when the complainant is below the age of consent). Severity, pervasiveness, and objective offensiveness are evaluated based on the totality of the circumstances from the perspective of a reasonable person in the same or similar circumstances ("in the shoes of the Complainant"), including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

1) Sex Offenses, Forcible:

- i) Any sexual act directed against another person,
- ii) without the consent of the complainant,
- iii) including instances in which the complainant is incapable of giving consent.

2) Forcible Rape:

- i) Penetration,
- ii) no matter how slight,
- iii) of the vagina or anus with any body part or object, or
- iv) oral penetration by a sex organ of another person,
- v) without the consent of the complainant.

3) Forcible Sodomy:

- i) Oral or anal sexual intercourse with another person,
- ii) forcibly,
- iii) and/or against that person's will (non-consensually), or
- iv) not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age¹³ or because of temporary or permanent mental or physical incapacity.

4) Sexual Assault with an Object:

- i) The use of an object or instrument to penetrate,
- ii) however slightly,
- iii) the genital or anal opening of the body of another person,
- iv) forcibly,
- v) and/or against that person's will (non-consensually),
- vi) or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

5) Forcible Fondling:

- i) The touching of the private body parts of another person (buttocks, groin, breasts),
- ii) for the purpose of sexual gratification,

¹³ Per Pennsylvania state law.

- iii) forcibly,
- iv) and/or against that person's will (non-consensually),
- v) or not forcibly or against the person's will in instances in which the complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

6) Sex Offenses, Non-forcible:

- i) Incest:
 - 1) Non-forcible sexual intercourse,
 - 2) between persons who are related to each other,
 - 3) within the degrees wherein marriage is prohibited by Pennsylvania law.
- ii) Statutory Rape:
 - 1) Non-forcible sexual intercourse,
 - 2) with a person who is under the statutory age of consent of 16.

d. Dating Violence:

- 1) violence,
 - 2) on the basis of sex,
 - 3) committed by a person,
 - 4) who is in or has been in a social relationship of a romantic or intimate nature with the complainant.
- (i) The existence of such a relationship shall be determined based on the complainant's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. For the purposes of this definition—
 - (ii) Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse.
 - (iii) Dating violence does not include acts covered under the definition of domestic violence.

e. Domestic Violence:

- 1) violence,
- 2) on the basis of sex,
- 3) committed by a current or former spouse or intimate partner of the complainant,

- 4) by a person with whom the complainant shares a child in common, or
- 5) by a person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner, or
- 6) by a person similarly situated to a spouse of the complainant under the domestic or family violence laws of Pennsylvania, or by any other person against an adult or youth complainant who is protected from that person's acts under the domestic or family violence laws of Pennsylvania.

*To categorize an incident as Domestic Violence, the relationship between the respondent and the complainant must be more than just two people living together as roommates. The people cohabitating must be current or former spouses or have an intimate relationship.

** Collectively, dating violence and domestic violence are referred to as "intimate partner abuse."

f. Stalking:

- 1) engaging in a course of conduct,
- 2) on the basis of sex,
- 3) directed at a specific person, that
 - i. would cause a reasonable person to fear for the person's safety, or
 - ii. the safety of others; or
 - iii. Suffer substantial emotional distress.

For the purposes of this definition—

- (i) Course of conduct means two or more acts, including, but not limited to, acts in which the respondent directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with a person's property.
- (ii) Reasonable person means a reasonable person under similar circumstances and with similar identities to the complainant.
- (iii) Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.

g. **Supervisory Conflict of Interest.** The University does not have a policy prohibiting romantic or sexual relationships between members of the University community. However, the University does not permit an individual in a position of direct or indirect power or influence over another individual (for example, faculty over students or staff; supervisor over supervisee, graduate teaching assistant over undergraduate class participant, etc.) to engage in a romantic or sexual relationship with that individual without resolving the conflict of interest (that is, the position of power or influence). To engage in this kind of relationship puts the individual in the position of power or influence at risk for charges of sexual harassment and creates a situation that may result in discriminatory treatment of others. Accordingly, a supervisor should avoid developing a romantic or sexual relationship with an employee. Similarly, an instructor (e.g., advisor, course instructor, teaching assistant) should avoid developing a romantic or sexual relationship with a student taught, advised, or supervised by that instructor. If such a relationship does develop, it is a conflict of interest for the supervisor or instructor to continue in any type of supervisory role. In such a situation, the supervisor or instructor must arrange for alternative supervision of the employee or student. For example, a doctoral advisor should confer with the student and the faculty of his or her department to identify and recruit an alternate doctoral advisor. A supervisor and employee should work with their department and Human Resources for reassignment of the employee or supervisor to another department or to institute a change in the supervisory relationship.

It is the responsibility of the person in the supervisory role to report the conflict of interest directly to his or her supervisor and to resolve it in a manner satisfactory to the supervisor.

2.4. Force, Coercion, Consent,¹⁴ and Incapacitation

¹⁴ The general state definition of consent, which is applicable to criminal prosecutions for sex offenses in Pennsylvania (but may differ from the definition used on campus to address Policy violations) is:

- (a) **General rule.** --The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent negatives an element of the offense or precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.
- (b) **Consent to bodily injury.** --When conduct is charged to constitute an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if: (1) the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or (2) the consent establishes a justification for the conduct under Chapter 5 of this title (relating to general principles of justification).

As used in the offenses in Section 2.3, the following definitions and understandings apply:

2.4.1. **Force:** Force is the use of physical violence and/or physical imposition to gain sexual access. Force also includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent (e.g., "Have sex with me or I'll hit you," "Okay, don't hit me, I'll do what you want.").

Sexual activity that is forced is, by definition, non-consensual, but non-consensual sexual activity is not necessarily forced. Silence or the absence of resistance alone is not consent. Consent is not demonstrated by the absence of resistance. While resistance is not required or necessary, it is a clear demonstration of non-consent.

2.4.2. **Coercion:** Coercion is unreasonable pressure for sexual activity. Coercive conduct differs from seductive conduct based on factors such as the type and/or extent of the pressure used to obtain consent. When someone makes clear that they do not want to engage in certain sexual activity, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

2.4.3. **Consent:** Consent is a mutual agreement to participate in a specific activity at a specific time. Consent must be clear, knowing, and voluntary. Consent to one kind of sexual activity does not, alone, imply consent to other sexual activities. Consent is required at each new level of sexual activity. Consent must be clearly communicated (for example, by way of mutually understandable words or actions), mutual, non-coercive, and given free of force or the threat of force. A person who is physically or mentally incapacitated by drugs, alcohol, or other circumstances is not capable of giving consent. A person must be awake and fully conscious in order to give consent. An individual may change their mind and revoke consent at any time by verbal or non-verbal communication. A previous dating or sexual relationship, whether with the respondent or anyone else, cannot imply consent to future sexual acts.

(c) **Ineffective consent.** --Unless otherwise provided by this title or by the law defining the offense, assent does not constitute consent if: (1) it is given by a person who is legally incapacitated to authorize the conduct charged to constitute the offense; (2) it is given by a person who by reason of youth, mental disease or defect or intoxication is manifestly unable or known by the actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; (3) it is given by a person whose improvident consent is sought to be prevented by the law defining the offense; or (4) it is induced by force, duress or deception of a kind sought to be prevented by the law defining the offense.

Since individuals may experience the same interaction in different ways, it is the responsibility of each party to determine that the other has consented before engaging in the activity.

If consent is not clearly provided prior to engaging in the activity, consent may be ratified by word or action at some point during the interaction or thereafter, but clear communication from the outset is strongly encouraged.

Proof of consent or non-consent is not a burden placed on either party involved in an incident. Instead, the burden remains on the University to determine whether its policy has been violated. The existence of consent is based on the totality of the circumstances evaluated from the perspective of a reasonable person in the same or similar circumstances, including the context in which the alleged incident occurred and any similar, previous patterns that may be evidenced.

Consent in relationships must also be considered in context. For example, when parties consent to BDSM¹⁵ or other forms of kink,¹⁶ non-consent may be shown by the use of a safe word. Resistance, force, violence, or even saying “no” may be part of the kink and thus consensual, so the University’s evaluation of communication in kink situations should be guided by reasonableness, rather than strict adherence to policy that assumes non-kink relationships as a default.

2.4.4. Incapacitation: A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious, for any reason, including by alcohol or other drugs. As stated above, a respondent violates this policy if they engage in sexual activity with someone who is incapable of giving consent.

It is a defense to a sexual assault policy violation that the respondent neither knew nor should have known the complainant to be physically or mentally incapacitated. “Should have known” is an objective, reasonable person standard which assumes that a reasonable person is both sober and exercising sound judgment.

Incapacitation occurs when someone cannot make rational, reasonable decisions because they lack the capacity to give knowing/informed consent

¹⁵ Bondage, discipline/dominance, submission/sadism, and masochism.

¹⁶ Kink, as the term is defined in the area of human sexuality, refers to sexual behavior where the use of force or violence is consensual, and includes such behaviors as dominant/submissive behaviors, safe words, and BDSM.

(e.g., to understand the “who, what, when, where, why, or how” of their sexual interaction).

Incapacitation is determined through consideration of all relevant indicators of an individual’s state and is not synonymous with intoxication, impairment, blackout, and/or being drunk.

This policy also covers a person whose incapacity results from a temporary or permanent physical or mental health condition, involuntary physical restraint, and/or the consumption of incapacitating drugs.

2.5. Other Prohibited Conduct Based on Sex

In addition to the forms of Sexual Harassment described in Section 2.3, which are covered by Title IX, the University also prohibits the following offenses as forms of discrimination outside of Title IX when the act is based upon the complainant’s actual or perceived identity on the basis of sex.

- Sexual Exploitation, defined as: taking non-consensual or abusive sexual advantage of another for their own benefit or for the benefit of anyone other than the person being exploited, and that conduct does not otherwise constitute sexual harassment under this policy. Examples of Sexual Exploitation include, but are not limited to:
 - Sexual voyeurism (such as observing or allowing others to observe a person undressing or using the bathroom or engaging in sexual acts, without the consent of the person being observed)
 - Invasion of sexual privacy
 - Taking pictures, video, or audio recording of another in a sexual act, or in any other sexually-related activity when there is a reasonable expectation of privacy during the activity, without the consent of all involved in the activity, or exceeding the boundaries of consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person’s consent), including the making or posting of revenge pornography
 - Engaging in sexual activity with another person while knowingly infected with human immunodeficiency virus (HIV) or a sexually-transmitted disease (STD) or infection (STI), without informing the other person of the infection
 - Causing or attempting to cause the incapacitation of another person (through alcohol, drugs, or any other means) for the purpose of compromising that person’s ability to give consent to sexual activity, or for the purpose of making that person vulnerable to non-consensual sexual activity

- Misappropriation of another person's identity on apps, websites, or other venues designed for dating or sexual connections
- Forcing a person to take an action against that person's will by threatening to show, post, or share information, video, audio, or an image that depicts the person's nudity or sexual activity

2.6. Retaliation. This Policy prohibits retaliation against, and intimidation, coercion, discrimination, or harassment of, anyone who reports or is believed to have reported harassment, discrimination, or other prohibited conduct, or who is a party or witness or otherwise involved in a proceeding under this Policy. Such retaliation, intimidation, coercion, discrimination, or harassment will be considered a serious violation of this Policy, regardless of whether a complaint or formal complaint is upheld. Encouraging others to retaliate is also prohibited. Complaints of retaliation should be filed with the Equal Opportunity Compliance Coordinator using the procedures set forth in this Policy.

3. ALTERNATIVES TO FILING A REPORT OR COMPLAINT AND THE COMPLAINANT'S CONTROL OVER THE RESOLUTION PROCESS

3.1 Confidential Resources. Individuals who wish to discuss matters covered by this Policy confidentially with a counselor or spiritual advisor who is not required to make a report under Section 4 of this Policy may utilize University Counseling & Psychological Services (UCPS) or Chaplain's Office (for students) or the University's employee assistance program, Integrated Behavioral Health (for employees). Reports of harassment, discrimination, or other prohibited conduct that are made to individuals outside of these confidential sources will be addressed in a manner consistent with this Policy.

3.2 Action Without a Report or Complaint. Although the University encourages individuals who believe that they have been subject to harassment, discrimination, or other prohibited conduct to report the incident as outlined below, such individuals may wish to attempt to resolve the issue with the alleged harasser or discriminator through verbal or written communication without involvement of the University. Whether or not this step is taken, individuals have the right at any time to initiate informal resolution or to file a formal complaint as set forth below.

3.3 Complainant's Control Over the Resolution Process. In most instances when a report is made, the complainant (or individuals acting on behalf of a complainant) will exercise control over the process, including but not limited to, whether to move forward with a complaint or formal

complaint or to utilize the informal or formal resolution processes pursuant to Sections 5 and 6 of this Policy.

In limited circumstances, the Equal Opportunity Compliance Coordinator may determine that it is necessary to move forward with a complaint or formal complaint, despite the wishes of the complainant. The Equal Opportunity Compliance Coordinator will evaluate all requests by complainants (or individuals acting on behalf of a complainant) for confidential treatment of a report involving prohibited conduct under this Policy. This evaluation will take into account all of the facts and circumstances surrounding the incident including, but not limited to, whether the University has a legal duty to act because of a threat to the safety or security of the individuals involved or to the campus community, the potential for the creation or continuation of a hostile environment, or a pattern of conduct by the respondent that is a violation of this Policy. Before moving forward with a complaint or formal complaint against the wishes of a complainant, the Equal Opportunity Compliance Coordinator will meet with the complainant to discuss the decision and to discuss potential support measures, resources and other means of support.

4. INTERVENTION AND MAKING A REPORT

4.1. Intervention. University employees who witness harassment or discrimination are encouraged to intervene to stop the conduct, unless the circumstances would make such intervention dangerous.

4.2. When to Report.

4.2.1. Staff, faculty, administrators, teaching assistants, graduate assistants, research assistants, gryphons¹⁷ and other designated University representatives are required to immediately report incidents of harassment (including sexual harassment), discrimination, retaliation, or other conduct prohibited by this Policy, that are brought to their attention by student(s) or that are reported to them or witnessed by them involving student(s). Such reports must be made to the Equal Opportunity Compliance Coordinator (who also serves as the University's Title IX Coordinator), who will address the report consistent with the procedures set forth below. Descriptions of the conduct prohibited by this Policy, including the

¹⁷ For this Section 4.2.1, undergraduate and graduate students are mandatory reporters only while they are actively serving in their role and fulfilling their responsibilities as a paid teaching assistant, graduate assistant, research assistant or gryphon (i.e., when they are not serving in an official University capacity, Section 4.2.3 would apply).

definitions of harassment, sexual harassment, and discrimination, are contained in Section 2 of this Policy.

4.2.2. Staff, faculty and administrators who serve in a supervisory role at the University are required to immediately report incidents of harassment (including sexual harassment, discrimination, retaliation, or other conduct prohibited by this Policy, that are brought to their attention by any member of the University community including visitors. Such reports must be made to the Equal Opportunity Compliance Coordinator (who also serves as the University's Title IX Coordinator), who will address the report consistent with the procedures set forth below. Descriptions of the conduct prohibited by this Policy, including the definitions of harassment, sexual harassment, and discrimination, are contained in Section 2 of this Policy.

4.2.3. For individuals or circumstances not addressed in 4.2.1. or 4.2.2. above, all members of the University community are strongly encouraged, although not required, to promptly report incidents of harassment (including sexual harassment), discrimination, retaliation, or other conduct prohibited by this Policy, to the Equal Opportunity Compliance Coordinator (who also serves as the University's Title IX Coordinator). If a report is not made in accordance with this Section 4.2, the University may be unaware of the incident and therefore unable to respond. If an individual does not want to report for fear of potential retaliation, please refer to Section 2.6 above. When individuals are in doubt about their obligation to report an incident, they should consult with the Equal Opportunity Compliance Coordinator for guidance. Although a report can be filed at any time, reports should be made as soon as possible to prevent the passage of significant time between an incident and an investigation so that memory lapses, the departure of key witnesses, or other time-sensitive factors do not impede an investigation.

4.2.3.1. Time Limits on Reporting. Faculty and staff who do not report promptly should file a report within two years after the last act occurred, unless extenuating circumstances precluded making a report within that time period. Students who do not report promptly should file a report while the alleged respondent remains enrolled or employed at the University, or within two years of the complainant's last day of enrollment, unless extenuating circumstances precluded making a report within that time period.

4.3. Where to Report. Reports and complaints, including formal complaints, of incidents of harassment, discrimination, or other prohibited conduct under this Policy should be made to the Equal Opportunity Compliance Coordinator. The Equal Opportunity Compliance Coordinator

maintains an office in the Alumni Memorial Building at 27 Memorial Drive West and can be reached at 610-758-3535, EOCC@lehigh.edu or by submitting an online reporting form¹⁸ at lehigh.edu/go/harassment or at lehigh.edu/go/genderviolencereport.

In the event of a conflict of interest (that is, either the Equal Opportunity Compliance Coordinator is the one being accused of harassment or discrimination or there is a concern about fair process given an existing relationship), incidents of harassment, discrimination, or other prohibited conduct under this Policy may alternatively be reported to the Associate Vice President, Human Resources. The Associate Vice President, Human Resources maintains an office in the Human Resources building at 306 S. New Street, Suite 437, and can be reached at (610) 758-3900 or inrho@lehigh.edu.

Within forty-eight (48) hours of receiving a report or complaint of harassment, discrimination, or other prohibited conduct, the individual (if not the Equal Opportunity Compliance Coordinator) who received the report or complaint will notify the Equal Opportunity Compliance Coordinator of the allegation(s); the time, date, and location of the incident; and the identity of the involved parties.

The Equal Opportunity Compliance Coordinator will document all reports of harassment, discrimination, or other prohibited conduct. All individuals responsible for implementing and/or enforcing this Policy will receive comprehensive training on anti-discrimination and anti-harassment laws and related policies and procedures.

Individuals who choose to file criminal complaints with the Lehigh University Police Department or external law enforcement agencies may also simultaneously file complaints under this Policy.

4.4. Supportive Measures

The University will offer and implement appropriate and reasonable supportive measures to the parties upon notice of alleged harassment (including sexual harassment), discrimination, and/or retaliation.

Supportive measures are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the parties to restore or preserve access to the University's education program or activity, including measures designed to protect the

¹⁸ Although an online report may be filed anonymously, the University's ability to act may be limited if the reporter does not complete the form fully.

safety of all parties or the University's educational environment, and/or deter harassment, discrimination, and/or retaliation.

The Title IX Coordinator promptly makes supportive measures available to the parties upon receiving notice. At the time that supportive measures are offered, the Title IX Coordinator will inform the complainant, in writing, that they may file a complaint with the University either at that time or in the future, if they have not done so already. The Title IX Coordinator works with the complainant to ensure that their wishes are taken into account with respect to the supportive measures that are planned and implemented.

The University will maintain the privacy of the supportive measures, provided that privacy does not impair the University's ability to provide the supportive measures. The University will act to ensure as minimal an academic impact on the parties as possible. The University will implement measures in a way that does not unreasonably burden the other party.

These actions may include, but are not limited to:

- Referral to counseling, medical, and/or other healthcare services
- Referral to the Employee Assistance Program
- Referral to community-based service providers
- Visa and immigration assistance
- Student financial aid counseling
- Education to the community or community subgroup(s)
- Altering campus housing assignment(s)
- Altering work arrangements for employees or student-employees
- Safety planning
- Providing transportation accommodations
- Implementing contact limitations (no contact orders) between the parties
- Academic support, extensions of deadlines, or other course/program-related adjustments
- No Trespass or Persona Non Grata (PNG) orders
- Timely warnings issued by the Lehigh University Police Department in accordance with the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act")
- Class schedule modifications, withdrawals, or leaves of absence
- Increased security and monitoring of certain areas of the campus
- Any other actions deemed appropriate by the Title IX Coordinator

Violations of no contact orders will be referred to appropriate student or employee conduct processes for enforcement.

4.5. Emergency Removal/Administrative Leave

The University can act to remove a student-respondent entirely or partially from its education program or activities on an emergency basis when an individualized safety and risk analysis has determined that an immediate threat to the physical health or safety of any student or other individual justifies such removal. The Dean of Students or their designee shall have the authority under this Section and Article IV of the [Student Conduct System Policy](#) to take emergency action and shall follow the process established under Article IV of the [Student Conduct System Policy](#) to notify the respondent and allow a challenge to the decision following the removal.

The University may temporarily place an employee-respondent on leave upon receipt of allegations of harassment (including sexual harassment), discrimination, or other prohibited conduct pending the outcome of a formal resolution process pursuant to Section 5 or Section 6 of this Policy.

4.6. Notice

Upon receipt of notice by the Title IX Coordinator of an alleged violation of the Policy, the Title IX Coordinator will initiate a prompt initial assessment to determine next steps.

These steps may include one or more of the following options:

- 1) Offering supportive measures because the complainant does not want to proceed with an informal or formal resolution/grievance process; and/or
- 2) An informal resolution; and/or
- 3) A formal resolution/grievance process.

The formal resolution/grievance process will determine whether or not the Policy has been violated. If so, the University will promptly implement effective remedies designed to ensure that it is not deliberately indifferent to harassment or discrimination, their potential recurrence, or their effects.

5. ADDRESSING A COMPLAINT OF SEXUAL HARASSMENT

5.1. Overview

The procedures in Section 5 apply **only** to qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in Section 2.3 above) involving students, staff, administrators, or faculty members.

If other harassment or discrimination based upon a protected characteristic is alleged, see Section 6 for a description of the procedures applicable to the resolution of such offenses. If such other harassment or discrimination is alleged to have occurred based on the same facts and circumstances as alleged sexual harassment, all allegations of harassment or discrimination may be addressed through the processes described in this Section. In addition, the procedures in this Section may be used to address other collateral misconduct arising from the investigation of or occurring in conjunction with reported misconduct (e.g., vandalism, physical abuse of another).

Section 6 can also apply to allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in Section 2.3 above) when jurisdiction does not fall within Section 5, as determined by the Title IX Coordinator.

5.2. Promptness

The University acts promptly to resolve any allegations of sexual harassment once it has received notice. Complaints typically take 60-90 business days to resolve. There may be exceptions or extenuating circumstances that cause a resolution to take longer, but the University will strive to avoid any undue delays within its control.

Any time the general timeframes for resolution outlined in this Section 5 will be delayed, the University will provide written notice to the parties of the delay, the cause of the delay, and an estimate of the anticipated additional time that will be needed as a result of the delay.

5.3. Initial Assessment

Following receipt of notice or a complaint/formal complaint of an alleged violation of Section 2.3 of this Policy, the Title IX Coordinator¹⁹ will engage in an initial assessment, which is typically one to five business days in duration. The steps in an initial assessment may include:

- The Title IX Coordinator reaching out to the complainant to offer supportive measures.
- If only notice is given, the Title IX Coordinator seeking to determine if the person impacted wishes to make a formal complaint, and assisting them in doing so, if desired.

¹⁹ If circumstances require, the Title IX Coordinator will designate another person to oversee the process below should an allegation be made about the Coordinator or the Coordinator is otherwise unavailable or unable to fulfill their duties.

- If they do not wish to do so, the Title IX Coordinator will determine whether it is necessary to initiate a formal complaint under Section 3.3 of this Policy due to a safety and risk analysis indicating a compelling threat to health and/or safety.
- If a formal complaint is received, the Title IX Coordinator assessing its sufficiency and working with the complainant to make sure it is completed correctly.
- The Title IX Coordinator ensuring that the complainant is aware of their right to have an advisor.
- The Title IX Coordinator working with the complainant to determine whether the complainant prefers a supportive and remedial response, an informal resolution option, or a formal grievance process.
 - If the complainant prefers a supportive and remedial response, the Title IX Coordinator will work with the complainant to identify their wishes and then will facilitate implementation. No formal grievance process is initiated, although the complainant can elect to initiate one later, if desired.
 - If the complainant prefers an informal resolution option, the Title IX Coordinator will assess whether the formal complaint is suitable for informal resolution, which informal mechanism may serve the situation best or is available, and may seek to determine if the respondent is also willing to engage in informal resolution.
 - If the complainant prefers a formal grievance process, the Title IX Coordinator will determine if the misconduct alleged falls within the scope of Title IX:
 - If it does, the Title IX Coordinator will initiate the formal grievance process, directing the investigation to address:
 - an incident, and/or
 - a pattern of alleged misconduct, and/or
 - a culture/climate issue, based on the nature of the complaint.
 - If it does not, the Title IX Coordinator will determine that Title IX does not apply (and will “dismiss” that aspect of the formal complaint, if any), assess which policies or processes may apply, and proceed accordingly. **Please note that dismissing a complaint under Title IX is only procedural, and does not limit the University’s authority to address a complaint with another appropriate University process and/or remedy.**

5.4. Dismissal (Mandatory and Discretionary)²⁰

The Title IX Coordinator **must** dismiss a formal complaint or any allegations therein if, at any time, it is determined that:

- 1) The conduct alleged in the formal complaint would not constitute sexual harassment as defined in the Policy, even if proved; and/or
- 2) The conduct did not occur in an education program or activity controlled by the University (including buildings or property controlled by recognized student organizations); and/or
- 3) The University does not have control of the respondent; and/or
- 4) The conduct did not occur against a person in the United States; and/or
- 5) At the time of filing a formal complaint, a complainant is not participating in or attempting to participate in the education program or activity of the University.

The Title IX Coordinator **may** dismiss a formal complaint or any allegations therein if, at any time:

- 1) A complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; or
- 2) The respondent is no longer enrolled in or employed by the University; or
- 3) Specific circumstances prevent the University from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon any dismissal, the Title IX Coordinator will promptly send simultaneous written notice of the dismissal and the rationale for doing so to the parties.

This dismissal decision is appealable by any party under the procedures for appeal set forth in Section 5.6.3.20 below. A complainant who decides to withdraw a formal complaint may later request to reinstate it or refile it.

5.5. Right to an Advisor

The parties may each have an advisor of their choice present with them for all meetings and interviews within the resolution process, if they so

²⁰ These dismissal requirements are mandated by the 2020 Title IX Regulations, 34 CFR Part 106.45.

choose. The parties may select whomever they wish to serve as their advisor as long as the advisor is eligible and available.²¹

Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of-interest. A party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the decision-makers.

The Title IX Coordinator will also offer to assign a trained advisor for any party if the party so chooses. The advisor will be trained by the University and be familiar with the University's resolution processes. The Title IX Coordinator may elect to utilize qualified external organizations and/or individuals to serve as advisors.

If the parties choose an advisor from outside those identified by the University, the advisor will not have been trained by the University and may not be familiar with University policies and procedures.

Parties also have the right to choose not to have an advisor in the initial stages of the resolution process, prior to a hearing.

5.6. Resolution Processes

Resolution proceedings are private. All persons present at any time during the resolution process are expected to maintain the privacy of the proceedings in accordance with University policy. While the University expects parties to maintain the privacy of information that investigators share with parties during interviews, the parties have discretion to share their own knowledge and evidence with others if they so choose. The University encourages parties to discuss this with their advisors before doing so.

5.6.1. Training of Title IX Coordinator, investigators, advisors, decision-makers, appeal panels, and facilitators of informal resolution processes

Individuals designated as the Title IX Coordinator, investigator, advisor, decision-maker, appeal panel, or facilitator of informal resolution processes must not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent specifically.

²¹ "Available" means the party cannot insist on an advisor who does not have inclination, time, or availability. Also, the advisor cannot have institutionally conflicting roles, such as being a Title IX administrator who has an active role in the matter, or a supervisor who must monitor and implement sanctions.

Individuals who serve in these designated roles receive training on topics including the definition of Sexual Harassment, the scope of the University's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially.

Decision-makers also receive training on any technology to be used during the hearing pursuant to the Formal Grievance Process and on issues of relevance of questions and evidence. Investigators also receive training on issues of relevance to create an investigation report that fairly summarizes relevant evidence.

Training materials do not rely on sex stereotypes and promote impartial investigations and adjudications of Formal Complaints. All training materials are posted at eocc.lehigh.edu.

5.6.2. Informal Resolution

There are three different approaches available for Informal Resolution:

- When the parties agree to resolve the matter through an alternate resolution mechanism, including mediation, restorative practices, etc. (see Section 5.6.2.1 below);
- When the respondent accepts responsibility for violating policy, and desires to accept a sanction and end the resolution process (see Section 5.6.2.2 below); or
- When the Title IX Coordinator resolves the matter informally by providing supportive measures to remedy the situation (see Section 5.6.2.3 below).

To initiate Informal Resolution, a complainant must submit a Formal Complaint. If a respondent wishes to initiate Informal Resolution, they should contact the Title IX Coordinator.

It is not necessary to pursue Informal Resolution first in order to pursue a Formal Grievance Process, and any party participating in Informal Resolution can stop the process at any time and begin or resume the Formal Grievance Process.

Prior to implementing Informal Resolution, the Title IX Coordinator will provide the parties with written notice of the reported misconduct and any sanctions or measures that may result from participating in such a process, including information regarding any records that will be maintained or shared by the University.

The Title IX Coordinator will obtain voluntary, written confirmation that all parties wish to resolve the matter through Informal Resolution before proceeding and will not pressure the parties to participate in Informal Resolution.

The Title IX Coordinator may consider any or all of the following factors to assess whether Informal Resolution is appropriate, or which form of Informal Resolution may be most successful for the parties:

- The parties' amenability to Informal Resolution;
- Likelihood of potential resolution, taking into account any power dynamics between the parties;
- The parties' motivation to participate;
- Civility of the parties;
- Cleared violence risk assessment/ongoing risk analysis;
- Disciplinary history;
- Whether an emergency removal is needed;
- Skill of the facilitator with the particular type of complaint;
- Complaint complexity;
- Emotional investment/intelligence of the parties;
- Rationality of the parties;
- Goals of the parties; and/or
- Adequate resources to invest in Informal Resolution (time, staff, etc.)

5.6.2.1 Alternate Resolution

Alternate Resolution is an informal process, including mediation or restorative practices, etc., by which the parties reach a mutually agreed upon resolution of an allegation. All parties must consent to the use of Alternate Resolution.

The Title IX Coordinator may look to the factors described above to assess whether Alternate Resolution is appropriate, or which form of Alternate Resolution may be most successful for the parties.

The Title IX Coordinator will determine whether Alternate Resolution is available or successful. The Title IX Coordinator maintains records of any resolution that is reached, and failure to abide by the resolution agreement may result in appropriate responsive/disciplinary actions. Results of Formal Complaints resolved by Informal Resolution or Alternate Resolution are not appealable.

5.6.2.2. Respondent Accepts Responsibility for Alleged Violations

The respondent may accept responsibility for all or part of the alleged policy violations at any point during the resolution process. If the respondent indicates an intent to accept responsibility for all of the alleged misconduct, the Formal Grievance Process will be paused, and the Title IX Coordinator will determine whether Informal Resolution can be used according to the criteria in Section 5.6.2 above.

If Informal Resolution is applicable, the Title IX Coordinator will determine whether all parties and the University are able to agree on responsibility, sanctions, and/or remedies. If so, the Title IX Coordinator will implement the accepted finding that the respondent is in violation of University policy, and the agreed-upon sanctions and/or remedies, in coordination with other appropriate administrator(s), as necessary.

This result is not subject to appeal once all parties indicate their written assent to all agreed upon terms of resolution. If the parties cannot agree on all terms of resolution, the Formal Grievance Process will resume at the same point where it was paused.

When a resolution is accomplished, the appropriate sanction or responsive actions are promptly implemented in order to effectively stop the harassment or discrimination, prevent its recurrence, and remedy the effects of the discriminatory conduct, both for the complainant and the community.

5.6.2.3. Negotiated Resolution

The Title IX Coordinator, with the consent of the parties, may negotiate and implement an agreement to resolve the allegations that satisfies all parties and the University. Negotiated Resolutions are not appealable.

5.6.2.4. Facilitators

Individuals who facilitate an Informal Resolution process will be faculty or staff members who have received relevant annual training and have been selected by the Title IX Coordinator to serve in this capacity. The Title IX Coordinator may elect to utilize qualified external organizations and/or individuals to serve as Facilitators.

5.6.3. Formal Grievance Process

5.6.3.1. Notice of Investigation and Allegations ("NOIA")

The Title IX Coordinator will provide written notice of the investigation and allegations (the "NOIA") to the respondent upon commencement of the

Formal Grievance Process. This facilitates the respondent's ability to prepare for the interview and to identify and choose an advisor to accompany them. The complainant will be provided with advance notice regarding when the NOIA will be delivered to the respondent. When the NOIA is provided to the respondent, the complainant will be copied on that communication.

The NOIA will include:

- A meaningful summary of all allegations,
- The identity of the involved parties (if known),
- The precise misconduct being alleged,
- The date and location of the alleged incident(s) (if known),
- The specific policies implicated,
- A description of the applicable procedures,
- A statement of the potential sanctions/responsive actions that could result,
- A statement that the University presumes the respondent is not responsible for the reported misconduct unless and until the evidence supports a different determination,
- A statement that determinations of responsibility are made at the conclusion of the process and that the parties will be given an opportunity to inspect and review all directly related and/or relevant evidence obtained during the review and comment period,
- A statement about the University's policy on retaliation,
- Information about the privacy of the process,
- Information on the need for each party to have an advisor of their choosing and suggestions for ways to identify an advisor,
- A statement informing the parties that the University's Policy prohibits knowingly making false statements, including knowingly submitting false information during the resolution process,
- Detail on how the party may request disability accommodations during the process,
- A link to the University's Title IX Brochure,
- If already identified, the names of the investigators, along with a process to identify, in advance of the interview process, to the Title IX Coordinator any conflict of interest that the investigators may have, and
- An instruction to preserve any evidence that is directly related to the allegations.

Amendments and updates to the NOIA may be made as the Formal Grievance Process progresses and more information becomes available regarding the addition or dismissal of various charges.

The NOIA will be made in writing and will be delivered by email to the parties' University-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

5.6.3.2. Investigation Process

All investigations are thorough, reliable, impartial, prompt, and fair. Investigations involve interviews with all relevant parties and witnesses; obtaining available, relevant evidence; and identifying sources of expert information, as necessary.

All parties have a full and fair opportunity, through the investigation process, to suggest witnesses and questions, to provide evidence and expert witnesses, and to fully review and respond to all evidence on the record.

The investigators will conduct a thorough, prompt, and impartial investigation of the Formal Complaint. Two trained investigators will be assigned by the Title IX Coordinator to conduct the investigation. The investigators will be faculty or staff members who have received relevant annual training and have been selected by the Title IX Coordinator to serve in this capacity. The Title IX Coordinator may elect to utilize qualified external organizations and/or individuals to serve as investigators.

The investigation may include interviews with the parties and witnesses, which may or may not be recorded. Follow-up interviews will be conducted as necessary. Parties and witnesses will have an opportunity to review and verify the summary notes of the relevant evidence/testimony from their respective interviews and meetings. Parties may submit suggested witnesses and questions they wish the investigators to ask of the other party and witnesses. The investigators may establish deadlines for the submission of such witnesses and questions. The investigators shall use their discretion in determining the individuals to interview and which questions shall be asked. The investigators will document their rationale for rejecting witnesses or questions in the investigation report.

Status updates will be provided to the parties throughout the investigation.

The investigators shall prepare a comprehensive investigation report fully summarizing the investigation, all witness interviews, and addressing all relevant evidence. Appendices including relevant physical or documentary evidence will be included. The investigators are responsible for gathering, assessing, and synthesizing evidence in the investigation report.

The parties (and their advisors, if so desired by the parties) will be provided with a secure electronic or hard copy of the draft investigation report, as well as an opportunity to inspect and review all of the evidence obtained as part of the investigation that is directly related to the reported misconduct, including evidence upon which the University does not intend to rely in reaching a determination, for a ten (10) business day review and comment period so that each party may meaningfully respond to the evidence. The parties may elect to waive the full ten (10) days.

Along with the parties' submitted responses to the review of the investigation report and evidence, the parties may each submit a written impact statement. The impact statement may be considered by the decision-maker only at the sanction stage of the process in cases where the respondent has been found responsible.

The investigators may elect to respond in writing in the investigation report to the parties' submitted responses and/or to share the responses between the parties for additional responses. The investigators will incorporate relevant feedback, including any additional relevant evidence, and finalize the report. The final report will be shared with the parties and their advisors at least ten (10) business days prior to the hearing. The parties will also be provided with a file of any directly related evidence that was not included in the report.

5.6.3.3. Role and Participation of Witnesses

Witnesses (as distinguished from the parties) who are employees or students of the University are required to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may warrant discipline.

While in-person interviews for parties and all potential witnesses are ideal, circumstances (e.g., study abroad, summer break, pandemics) may require individuals to be interviewed remotely. Skype, Zoom, FaceTime, WebEx, or similar technologies may be used for interviews if the investigators and/or Title IX Coordinator determine that the circumstances dictate a need for remote interviewing. The investigators and/or Title IX Coordinator will take appropriate steps to reasonably ensure the security/privacy of remote interviews.

5.6.3.4. Recording of Interviews

No unauthorized audio or video recording of any kind is permitted during investigation meetings. Unauthorized audio or video recording may result in disciplinary action. If investigators elect to audio and/or video record interviews, all involved parties will be made aware of audio and/or video recording.

5.6.3.5. Evidentiary Considerations in the Investigation

The investigation does not consider: 1) incidents not directly related to the possible violation(s), unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

In addition, the University cannot access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made or maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.

5.6.3.6. Referral for Hearing

Once the final investigation report is shared with the parties, and provided that the Formal Complaint has not been resolved through Informal Resolution, the Title IX Coordinator will refer the matter for a hearing.

The hearing cannot be less than ten (10) business days from the conclusion of the investigation (i.e., when the final investigation report is transmitted to the parties and the decision-maker) unless all parties and the decision-maker agree to an expedited timeline.

The Title IX Coordinator will select an appropriate decision-maker depending on whether the respondent is a faculty member, staff member, or student. In determining the appropriate composition of the decision-maker, students include individuals whose primary relationship with the University is as a student, including all undergraduate and graduate students and those who are functioning as gryphons, graduate assistants, research assistants, teaching assistants, and teaching fellows. Allegations involving individuals whose primary role is as an employee but who are

enrolled in courses part-time at the University or who work on research grants at the University are considered staff and will be directed to the appropriate decision-maker deciding faculty or staff cases.

In cases where the respondent is a student, the Title IX Coordinator may collaborate with the Office of Student Conduct & Community Expectations to select an appropriate decision-maker. In cases where the respondent is an employee, the Title IX Coordinator may collaborate with relevant University administrators and/or offices to select an appropriate decision-maker.

5.6.3.7. Hearing Decision-maker Composition and Notification of Hearing

The Title IX Coordinator, in consultation with appropriate individuals, will designate a three-member panel to serve as the decision-maker. One of the three members will be appointed as Chair by the Title IX Coordinator.

The three members will be comprised of faculty and staff members who have received relevant annual training and have been selected by the Title IX Coordinator to serve in this capacity. The composition of the panel will be dependent on the University status of the respondent (i.e., if the respondent is a faculty member, the panel will be comprised of two faculty members and one staff member. If the respondent is a staff member, the panel will be comprised of two staff members and one faculty member. If the respondent is a student, the panel will be composed of three faculty and staff members). The Title IX Coordinator may elect to utilize qualified external organizations and/or individuals to serve as the decision-maker.

The decision-maker will not have had any previous involvement with the investigation. The Title IX Coordinator may elect to have an alternate panel member present throughout the resolution process in the event that a substitute is needed for any reason.

The investigators will be witnesses in the hearing and therefore may not serve as decision-makers in the case they are investigating. Those who are serving as advisors for any party or may serve as a witness in the hearing may not serve as decision-makers in that matter.

The Title IX Coordinator may not serve as a decision-maker or Chair in the matter but may serve as an administrative facilitator of the hearing if their previous role(s) in the matter do not create a conflict of interest. Otherwise, a designee may fulfill this role. The hearing will convene at a time arranged by the Title IX Coordinator or designee, in consultation with the Chair. No less than ten (10) business days prior to the hearing, the

Title IX Coordinator will send notice of the hearing to the parties. Once the notice is sent, notice will be presumptively delivered.

Hearings for possible violations that occur near or after the end of an academic term (assuming the respondent is still subject to this Policy) and are unable to be resolved prior to the end of term will typically be held immediately after the end of the term or during the summer, as needed, to meet the resolution timeline followed by the University and remain within the 90 business day goal for resolution.

In these cases, if the respondent is a graduating student, a hold may be placed on graduation and/or official transcripts until the matter is fully resolved (including any appeal). A student facing charges under this Policy is not in good standing to graduate.

5.6.3.8. Evidentiary Considerations in the Hearing

Any evidence that the decision-maker determines is relevant and credible may be considered during the hearing. The hearing does not consider: 1) incidents not directly related to the possible violation, unless they evidence a pattern; 2) the character of the parties; or 3) questions and evidence about the complainant's sexual predisposition or prior sexual behavior, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

In addition, the University cannot access, consider, disclose or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made or maintained in connection with the provision of treatment to the party, unless the University obtains that party's voluntary, written consent to do so.

Previous disciplinary action of any kind involving the respondent may be considered in determining an appropriate sanction upon a determination of responsibility. This information is only considered at the sanction stage of the process.

The parties may each submit a written impact statement prior to the hearing for the consideration by the decision-maker at the sanction stage of the process in cases where the respondent has been found responsible.

After post-hearing deliberation, the decision-maker renders a determination based on the preponderance of the evidence (i.e., whether it is more likely than not that the respondent violated the Policy as alleged).

5.6.3.9. Alternative Hearing Participation Options

If a party or parties prefer not to attend or cannot attend the hearing in person, the party should request alternative arrangements from the Title IX Coordinator at least five (5) business days prior to the hearing.

The Title IX Coordinator can arrange to use technology to allow remote testimony without compromising the fairness of the hearing. Remote options may also be needed for witnesses who cannot appear in person. Any witness who cannot attend in person should let the Title IX Coordinator know at least five (5) business days prior to the hearing so that appropriate arrangements can be made.

5.6.3.10. Pre-Hearing Preparation

The Chair, after any necessary consultation with the parties, investigator(s) and/or Title IX Coordinator, will notify the Title IX Coordinator of the names of persons who will be participating in the hearing and all pertinent documentary evidence. The Title IX Coordinator will provide notice to the parties at least ten (10) business days prior to the hearing of the names of the persons who will be participating in the hearing as parties and witnesses, all pertinent documentary evidence, and the final investigation report.

Any witness scheduled to participate in the hearing must have been first interviewed by the investigators (or have provided a written statement or answered written questions in lieu of the interview, if permitted at the discretion of the investigators), unless all parties and the Chair agree to the witness's participation in the hearing. The same holds for any evidence that is first offered at the hearing. If the parties and Chair do not agree to the admission of evidence newly offered at the hearing, the Chair will delay the hearing and instruct that the investigation needs to be re-opened to consider that evidence.

The parties will be given a list of the names of the decision-maker at least five (5) business days in advance of the hearing. All objections to the decision-maker must be raised in writing, detailing the rationale for the objection, and must be submitted to the Title IX Coordinator as soon as possible and no later than one (1) day prior to the hearing. Decision-makers will only be removed if the Title IX Coordinator concludes that their

bias or conflict of interest precludes an impartial hearing of the allegation(s).

The Title IX Coordinator will give the decision-maker a list of the names of all parties, witnesses, and advisors at least five (5) business days in advance of the hearing. Any decision-maker who, after receiving such list, concludes they cannot make an objective determination, must notify the Title IX Coordinator immediately and recuse themselves from the proceedings. If a decision-maker is unsure of whether a bias or conflict of interest exists, they must raise the concern with the Title IX Coordinator as soon as possible.

During the ten (10) business day period prior to the hearing, the parties may continue to review and comment on the final investigation report and available evidence. The parties may share their review and comment with the Chair at the pre-hearing meeting or at the hearing. The Chair will share any submitted comments with the other parties.

5.6.3.11. Pre-Hearing Meetings

The Chair will convene a pre-hearing meeting(s) with the parties and/or their advisors to invite them to submit the questions or topics they (the parties and/or their advisors) wish to ask or discuss at the hearing, so that the Chair can rule on their relevance ahead of time to avoid any improper evidentiary introduction in the hearing, or to provide recommendations for more appropriate phrasing. This advance review opportunity does not preclude the advisors from asking at the hearing for the decision-maker to reconsider their decision based on any new information or testimony offered at the hearing. The Chair must document and share their rationale for any exclusion or inclusion of information at this pre-hearing meeting on which the parties and/or their advisors do not agree.

The Chair, **only** with full agreement of the parties, may decide in advance of the hearing that certain witnesses do not need to appear at the hearing if their testimony can be adequately summarized by the investigators in the investigation report or during the hearing.

At each pre-hearing meeting with a party and their advisor, the Chair will consider arguments that evidence identified in the final investigation report as relevant is, in fact, not relevant. Similarly, evidence identified as directly related but not relevant by the investigators may be argued to be relevant. The Chair may rule on these arguments prior to the hearing and will exchange those rulings between the parties prior to the hearing to assist in preparation for the hearing. The Chair may consult with University

legal counsel or their designee and/or the Title IX Coordinator or their designee, or ask either or both to attend pre-hearing meetings.

The pre-hearing meeting(s) will not be recorded.

5.6.3.12. Joint Hearings

For hearings involving more than one respondent or in which two (2) or more complainants have accused the same individual of substantially similar conduct, the standard procedure will be to hear the allegations jointly.

However, the Title IX Coordinator may permit the investigation and/or hearings pertinent to each respondent to be conducted separately if there is a compelling reason to do so. In joint hearings, separate determinations of responsibility will be made for each respondent with respect to each alleged policy violation.

5.6.3.13. Hearing Procedures

At the hearing, the decision-maker has the authority to hear and make determinations on all allegations of sexual harassment and on any additional alleged policy violations that have occurred in concert with the sexual harassment, even though those collateral allegations may not specifically fall within the definition of sexual harassment pursuant to this Policy.

Participants at the hearing will include the decision-maker, the hearing coordinator, the investigators who conducted the investigation, the parties (or one (1) organizational representative when an organization is the respondent²²), advisors to the parties, any called witnesses, and anyone providing authorized accommodations or assistive services. The Title IX Coordinator may also attend the hearing.

The hearing procedures will be developed by the Title IX Coordinator, in coordination with relevant offices assisting with the hearing process. These procedures will be reviewed with the parties and their advisors at the pre-hearing meeting with the Chair and/or Title IX Coordinator.

At the hearing, a non-voting hearing coordinator appointed by the Title IX Coordinator will manage recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative

²² Subject to the University's Student Conduct System Policy.

elements of the hearing process. The hearing coordinator will also conduct the hearing.

At the hearing, the Chair may provide the parties with a final opportunity to challenge or request the recusal of the decision-maker and/or investigators on the basis of bias or conflict of interest. If the parties raise an issue of bias or conflict of interest of an investigator or decision-maker at this time, the Chair may elect to address those issues, consult with University legal counsel (or their designee), and/or refer them to the Title IX Coordinator, and/or preserve them for appeal. The Chair may also allow testimony specific to the issue of bias or conflict of interest prior to rendering their decision. The Chair will rule on any such challenge unless the Chair is the individual who is the subject of the challenge, in which case the Title IX Coordinator will review and decide the challenge. Once the Chair (or Title IX Coordinator, if the challenge is in regard to the Chair) has decided the challenge, the Chair will not permit irrelevant questions that probe for bias during the remainder of the hearing.

The Chair will answer all questions of procedure. Anyone appearing at the hearing to provide information will respond to questions on their own behalf.

The Chair will allow witnesses who have relevant information to appear at a portion of the hearing in order to respond to specific questions from the decision-maker and the parties; such witnesses will then be excused. The investigators will remain available during the entire hearing process.

5.6.3.14. Testimony and Questioning During the Hearing

Investigators, parties, and witnesses will provide relevant information in the order determined by the Chair. The decision-maker will initiate questioning of the investigators, parties, and witnesses, followed by questioning by the parties through their advisors ("cross-examination").

Under U.S. Department of Education regulations applicable to Title IX, cross-examination is required during the hearing, but must be conducted by the parties' advisors. The parties are not permitted to directly cross-examine each other or any witnesses. If a party does not have an advisor for a hearing, the Title IX Coordinator will appoint a trained advisor for the limited purpose of conducting any cross-examination.

A party may reject this appointment and choose their own advisor, but they may not proceed without an advisor. If the party's advisor will not conduct cross-examination, the Title IX Coordinator will appoint an advisor who will do so thoroughly, regardless of the participation or non-

participation of the advised party in the hearing itself. The decision-maker will also conduct questioning of the parties and witnesses during the hearing.

Neither the parties nor the decision-maker should ask the investigators their opinions on credibility, recommended findings, or determinations. If such information is introduced, the Chair will direct that it be disregarded.

All questions are subject to a relevance determination by the Chair. The advisor will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive. The Chair, at its discretion, may explore arguments regarding relevance with the advisors. The Chair may consult with University legal counsel (or their designee) on any questions of admissibility. The Chair will state their decision on the question for the record and advise the party/witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance. The Chair's decision on all questions and determinations of relevance is final, subject to any appeal.

5.6.3.15. Refusal to Submit to Cross-Examination and Inferences

Witnesses (as distinguished from the parties) who are employees or students of the University are required to cooperate with and participate in the University's investigation and resolution process. Failure of such witnesses to cooperate with and/or participate in the investigation or resolution process constitutes a violation of Policy and may warrant discipline.

If a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the decision-maker may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the final determination of responsibility. The decision-maker must disregard all such statements. Evidence provided that is something other than a statement by the party or witness may be considered.

If a party or witness attends the hearing and answers some, but not all, cross-examination questions, only statements related to the cross-examination questions they answer can be relied upon by the decision-maker. If the statements of the party who is refusing to submit to cross-examination or refuses to attend the hearing are the subject of the allegation itself (e.g., the case is about verbal harassment or a quid pro quo offer), then those statements are not precluded from admission.

The decision-maker may not draw any inference solely from a party's or witness's absence from the hearing or refusal to answer cross-examination or other questions.

If charges of policy violations other than sexual harassment are considered at the same hearing, the decision-maker may consider all evidence it deems relevant, may rely on any relevant statement as long as the opportunity for cross-examination is afforded to all parties through their advisors, and may draw reasonable inferences from any decision by any party or witness not to participate or respond to questions.

If a party's advisor of choice refuses to comply with the University's established rules of decorum for the hearing, the Title IX Coordinator may require the party to use a different advisor. If a University-provided advisor refuses to comply with the rules of decorum, the Title IX Coordinator may provide that party with a different advisor to conduct cross-examination on behalf of that party.

5.6.3.16. Recording Hearings

Hearings (but not deliberations) are recorded by the University for purposes of review in the event of an appeal. The parties may not record the proceedings and no other unauthorized recordings are permitted.

The decision-maker, the parties, their advisors, relevant appellate bodies, and other appropriate administrators of the University will be permitted to listen to the recording in a controlled environment determined by the Title IX Coordinator. No person will be given or be allowed to make a copy of the recording without permission of the Title IX Coordinator.

5.6.3.17. Deliberation, Decision-making, and Standard of Proof

The decision-maker will deliberate in closed session to determine whether the respondent is responsible or not responsible for the policy violation(s) in question based upon a preponderance of the evidence standard. A simple majority vote is required to determine the finding. The hearing coordinator may be invited to attend the deliberation by the Chair, but is

there only to facilitate procedurally, not to address the substance of the allegations.

If there is a finding of responsibility on one or more of the allegations, the decision-maker may consider the party impact statements that were submitted prior to the hearing in determining appropriate sanction(s).

The Chair will ensure that each of the parties has an opportunity to review any impact statement submitted by the other party(ies). The decision-maker may – at their discretion – consider the statements, but they are not binding.

The decision-maker may review the statements and will review any pertinent conduct history provided by the appropriate University administrator and will recommend the appropriate sanction(s). The decision-maker shall consult with the Title IX Coordinator regarding the appropriate sanction(s) prior to making a determination.

The Chair will prepare a written deliberation statement and deliver it to the Title IX Coordinator, detailing the determination, rationale, the evidence used in support of its determination, the relative weight attributed to various evidence, credibility assessments, and any recommendations for sanctions.

This deliberation statement typically should not exceed three (3) to five (5) pages in length and must be submitted to the Title IX Coordinator within three (3) business days of the end of deliberations, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

5.6.3.18. Notice of Outcome

Using the deliberation statement, the Title IX Coordinator will work with the Chair to prepare a Notice of Outcome. The Title IX Coordinator will share the Notice of Outcome, including the final determination, rationale, and any applicable sanction(s) with the parties and their advisors within three (3) business days of receiving the decision-maker's deliberation statement, absent extenuating circumstances.

The Notice of Outcome will be shared with the parties simultaneously. Notification will be made in writing and will be delivered by email to the parties' University-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

The Notice of Outcome will identify the specific policy(ies) reported to have been violated, including the relevant policy section, and will contain a description of the procedural steps taken by the University from the receipt of the misconduct report to the determination, including any and all notifications to the parties, interviews with parties and witnesses, site visits, methods used to obtain evidence, and hearings held.

The Notice of Outcome will specify the finding on each alleged policy violation; the findings of fact that support the determination; conclusions regarding the application of the relevant policy to the facts at issue; a statement of, and rationale for, the result of each allegation to the extent the University is permitted to share such information under state or federal law; any sanctions issued which the University is permitted to share according to state or federal law; and any remedies provided to the complainant designed to ensure access to the University's educational or employment program or activity, to the extent the University is permitted to share such information under state or federal law (this detail is not typically shared with the respondent unless the remedy directly relates to the respondent).

The Notice of Outcome will also include information about when the results are considered by the University to be final, any changes that occur prior to finalization, and the relevant procedures and bases for any available appeal options.

5.6.3.19. Sanctions

Factors considered when determining a sanction/responsive action may include, but are not limited to:

- The nature, severity of, and circumstances surrounding the violation(s);
- The respondent's disciplinary history ;
- Previous allegations or allegations involving similar conduct;
- The need for sanctions/responsive actions to bring an end to the sexual harassment;
- The need for sanctions/responsive actions to prevent the future recurrence of sexual harassment;
- The need to remedy the effects of the sexual harassment on the complainant and the community;
- The impact on the parties; and/or
- Any other information deemed relevant by the decision-maker and/or Title IX Coordinator.

The sanctions will be implemented as soon as is feasible after the Notice of Outcome has been sent to the parties.

The sanctions described in this policy are not exclusive of, and may be in addition to, other actions taken or sanctions imposed pursuant to other University policies and procedures and/or by external authorities.

a. Student Sanctions

Responsive actions for a student who has been found to have engaged in sexual harassment are set forth in the [Student Conduct System Policy](#).

b. Employee Sanctions

Responsive actions for an employee who has been found to have engaged in sexual harassment include:

- Warning – Verbal or Written
- Performance Improvement/Management Process
- Required Counseling
- Required Training or Education
- Probation
- Loss of Annual Pay Increase
- Loss of Oversight or Supervisory Responsibility
- Demotion
- Suspension with pay
- Suspension without pay
- Termination²³

²³ A move for dismissal of a tenured member of the faculty requires a special procedure involving the Board of Trustees, as per the Rules and Procedures of the Faculty.

- Other Actions: In addition to or in place of the above sanctions, the University may assign any other sanctions as deemed appropriate.

5.6.3.20. Appeals

Any party may file a request for appeal ("Request for Appeal"). Any Request for Appeal must be submitted in writing to the Title IX Coordinator within three (3) business days of the delivery of the Notice of Outcome.

The Title IX Coordinator will designate a three-member appeal panel ("Appeal Panel") to decide the appeal. No appeal panelists will have been involved previously in the case being appealed, including any dismissal appeal that may have been heard earlier in the process. The Title IX Coordinator will also designate an Appeal Chair.

The Appeal Panel will be comprised of faculty and staff members who have received relevant annual training and have been selected by the Title IX Coordinator to serve in this capacity. The Title IX Coordinator may elect to utilize qualified external organizations and/or individuals to serve as the Appeal Panel.

The Request for Appeal will be forwarded to the Appeal Chair for consideration and to determine if the request meets the grounds for appeal (a Review for Standing). The Appeal Chair may consult with appropriate individuals to assist with the Review for Standing of the Request for Appeal.

This Review for Standing is not a review of the merits of the appeal, but solely a determination as to whether the request meets the grounds for appeal and is timely filed.

a. Grounds for Appeal

Appeals are limited to the following grounds:

- (A) Procedural irregularity that affected the outcome of the matter;
- (B) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (C) The Title IX Coordinator, investigators, or decision-maker had a conflict of interest or bias for or against complainants or respondents generally or the specific complainant or respondent that affected the outcome of the matter.

If any of the grounds in the Request for Appeal do not meet the grounds in this Section, that request will be denied and the Appeal Chair will notify the parties and their advisors in writing of the denial and the rationale.

If any of the grounds in the Request for Appeal meet the grounds in this Section, the Appeal Chair will notify the other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker.

The Appeal Chair will deliver by email a copy of the Request for Appeal with the approved grounds to the other party(ies) and their advisors, the Title IX Coordinator, and, when appropriate, the investigators and/or the original decision-maker. They will be given five (5) business days to submit a response to the portion of the appeal that was approved and applies to them. If an extension is requested and granted by the Title IX Coordinator, the Title IX Coordinator will notify all of those involved in the hearing. All responses will be forwarded by the Appeal Chair to all parties for review and comment.

The non-appealing party (if any) may choose to raise a new ground for appeal at this time. If so, the Appeal Chair will review the new ground for standing and will either deny or approve it. If approved, it will be forwarded to the party who initially requested an appeal, the investigators and/or original decision-maker, as necessary, who will submit their responses in five (5) business days. All responses will be circulated by the Appeal Chair to all parties for review and comment. If an extension is requested and granted by the Title IX Coordinator, the Title IX Coordinator will notify all those involved.

Neither party may submit any new requests for appeal after this time period. The Appeal Chair will collect any additional information needed and all documentation regarding the approved grounds and will share the pertinent information and documentation with the Appeal Panel. The Appeal Panel will render a decision in no more than five (5) business days, barring extenuating or unforeseen circumstances. All decisions are by majority vote and apply the preponderance of the evidence standard.

The Appeal Chair will prepare a written statement and deliver it to the Title IX Coordinator, detailing the decision on each approved ground and rationale for the decision by the Appeal Panel. The deliberation statement will include the finding on each ground for appeal, the rationale supporting the essential findings, the specific instructions for remand or reconsideration, and any sanctions that may result. This deliberation statement must be provided to the Title IX Coordinator within three (3) business days of the Appeal Panel reaching a decision on all approved

grounds for appeal, unless the Title IX Coordinator grants an extension. If an extension is granted, the Title IX Coordinator will notify the parties.

Using the deliberation statement, the Title IX Coordinator will work with the Appeal Chair to prepare a Notice of Appeal Outcome. A Notice of Appeal Outcome will be sent to all parties simultaneously including the decision on each approved ground and rationale for each decision. The Notice of Appeal Outcome will specify the finding on each ground for appeal, any specific instructions for remand or reconsideration, any sanctions that may result which the University is permitted to share according to state or federal law, and the rationale supporting the essential findings to the extent the University is permitted to share under state or federal law.

The Title IX Coordinator will share the Notice of Appeal Outcome with the parties and their advisors within three (3) business days of receiving the Appeal Panel's deliberation statement, absent extenuating circumstances. Notification will be made in writing and will be delivered by email to the parties' University-issued email or otherwise approved account. Once emailed, notice will be presumptively delivered.

b. Sanctions Status During the Appeal

Sanctions imposed as a result of the hearing are implemented as soon as feasible after the Notice of Outcome has been sent to the parties. Supportive measures may be reinstated, subject to the same supportive measure procedures set forth in Section 4.4 above.

During an appeal process, the University may still place holds on official transcripts, diplomas, graduations, and course registration pending the outcome of an appeal when the original sanctions included separation from the University.

c. Appeal Considerations

- Decisions on appeal are to be deferential to the original decision, making changes to the finding only when there is clear error and to the sanction(s)/responsive action(s) only if there is a compelling justification to do so.
- Appeals are not intended to provide for a full re-hearing (de novo) of the allegations. In most cases, appeals are confined to a review of the written documentation or record of the original hearing and pertinent documentation regarding the specific grounds for appeal.

- An appeal is not an opportunity for the Appeal Panel to substitute their judgment for that of the original decision-maker merely because they disagree with the finding and/or sanction(s).
- The Appeal Panel may consult with the Title IX Coordinator and/or University legal counsel (or their designees) on questions of procedure or rationale, for clarification, if needed.
- Appeals granted based on new evidence should normally be remanded to the original investigators and/or decision-maker for reconsideration. Other appeals may be remanded at the discretion of the Title IX Coordinator or, in limited circumstances, decided on appeal.
- Once an appeal is decided, the outcome is final: further appeals are not permitted, even if a decision or sanction is changed on remand (except in the case of a new hearing).
- In rare cases where a procedural (or substantive) error cannot be cured by the original decision-maker (as in cases of bias), the Appeal Panel may order a new hearing with a new decision-maker.
- The results of a remand to a decision-maker cannot be appealed.

For cases in which the appeal results in reinstatement to the University or resumption of privileges, all reasonable attempts will be made to restore the respondent to their prior status, recognizing that some opportunities lost may be irreparable in the short term.

6. ADDRESSING A COMPLAINT OF ANY FORM OF DISCRIMINATION, HARASSMENT (EXCLUDING SEXUAL HARASSMENT) AND OTHER PROHIBITED CONDUCT

The procedures in Section 6 apply to all forms of discrimination and harassment covered by this Policy, except that qualifying allegations of sexual harassment (including sexual assault, dating violence, domestic violence, and stalking, as defined in Section 2.3 above) involving students, staff, administrators or faculty members will be processed pursuant to Section 5 above.

Violation of any other University policies may constitute a violation of this Policy when a violation is motivated by actual or perceived membership in a protected class, and the result is a discriminatory limitation or denial of employment or educational access, benefits, or opportunities.

The University reserves the right to address offensive conduct and/or harassment that does not rise to the level of creating a hostile environment. Addressing such conduct will not result in the imposition of discipline under this Policy, but may be addressed through respectful conversation, remedial actions, education, effective Alternate Resolution,

and/or other informal resolution mechanisms. Depending on the nature of the offensive conduct and/or harassment that does not rise to the level of creating a hostile environment, the matter may be referred to the appropriate University offices for review and appropriate action under other University policies.

6.1. Initial Assessment

Within seventy-two (72) hours of receiving notice from the complainant or another reporting party, the Equal Opportunity Compliance Coordinator will contact the complainant to gather preliminary information about the report or complaint and to discuss the options of informal and formal resolution under this Section²⁴. The Equal Opportunity Compliance Coordinator will thereafter determine whether the informal resolution process, if requested, may be used and will assign a trained individual to investigate or facilitate an informal resolution, as appropriate. All requests for confidentiality will be handled pursuant to Section 13 of this Policy.

6.2. Informal Resolution

6.2.1 After consultation with the Equal Opportunity Compliance Coordinator, or designee, a complainant may decide to resolve a complaint informally. The goal of the informal resolution process is to rectify the problem. The informal resolution process is voluntary. This process involves having a facilitator help to resolve the issues between the complainant and the respondent. The informal resolution process may not be used in certain instances including, but not limited to, instances in which a complaint has been filed previously against the respondent. In these instances, please refer to Formal Resolution in Section 6.3 below.

6.2.2. The informal resolution process will commence, absent extenuating or unforeseen circumstances, within ten (10) calendar days of the receipt of a complainant's request for informal resolution. The informal process may result in solutions such as asking the respondent to modify or stop the behavior, separating the complainant and respondent, or reaching a mutually acceptable agreement. However, this informal resolution will not result in formal disciplinary action against the respondent without a formal process as outlined under Section 6.3. For information regarding the confidentiality of the informal resolution process, see Section 13 of this Policy.

²⁴ To the extent that there may be concern that an incident of harassment or discrimination as reported involves criminal conduct, the Equal Opportunity Compliance Coordinator will refer the matter to the Lehigh University Police Department.

6.2.3. As required under Sections 4.2.1 and 4.2.2, reports of incidents of harassment (including sexual harassment), discrimination, or other prohibited conduct received by any individual required to report pursuant to these sections should immediately be sent to the Equal Opportunity Compliance Coordinator. Any facilitator who participates in an informal resolution must also report the resolution of the case to the Equal Opportunity Compliance Coordinator who will keep a record of these reports. No record of cases that are successfully resolved through informal resolution will be placed in the complainant's or the respondent's personnel or student file.

6.2.4. If the informal resolution is unsuccessful, or if the complainant is dissatisfied with the informal process, the complainant may proceed with a complaint as outlined in Section 6.3. The complainant may terminate the informal resolution process at any time and proceed with the formal resolution process as outlined in Section 6.3.

6.2.5. The informal resolution process, absent extenuating or unforeseen circumstances, will be completed within sixty (60) calendar days. The parties will be advised of any material delays in the process.

6.3. Formal Resolution

After consultation with the Equal Opportunity Compliance Coordinator, or designee, a complainant may decide to file a complaint. Either the complainant or the Equal Opportunity Compliance Coordinator, or designee, will prepare a written complaint, including the name of the respondent, if available, within five (5) calendar days of the complainant's decision to file. The Equal Opportunity Compliance Coordinator, or designee, will give any named respondent and the complainant a copy of this written complaint within ten (10) calendar days of the initial meeting, and will refer the complaint as follows, depending upon whom the complaint is against. The University's procedures for resolving complaints under this Policy provide for the prompt, adequate, reliable, and impartial investigation and resolution of complaints, including an equal opportunity to present witnesses and relevant evidence. For information regarding the confidentiality of the formal resolution process, see Section 13 of this Policy. Complaints generally will be resolved within sixty (60) calendar days of the filing of the complaint absent extenuating or unforeseen circumstances. Where there is a need to extend this timeframe, the parties will be notified of any delays and provided an explanation for the delay. Parties will receive regular updates regarding the status of the complaint.

6.3.1. Complaints Against Students. Complaints against students are referred to the Dean of Students office within forty-eight (48) hours of the

preparation or receipt of the written complaint by the Equal Opportunity Compliance Coordinator and will be investigated and resolved through the procedures outlined in the [Student Conduct System Policy](#). In regard to a complaint against a student, two trained investigators shall conduct an investigation, concluding with the drafting of a report containing the investigators' factual findings, collected evidence, and recommendations. The report shall be provided to a panel of faculty and staff members to review and to determine whether, based on a preponderance of the evidence, any University policy has been violated. If the panel determines that a violation of University policy has occurred, the Office of Student Conduct & Community Expectations shall determine the appropriate disciplinary sanction and/or remedy. The parties shall be notified of the panel's determination regarding responsibility and of any applicable disciplinary action and/or remedy, as described more fully in Article V of the [Student Conduct System Policy](#). This policy is available in the Student Handbook and on Lehigh's website at [Student Conduct System Policy](#), or at <http://studentaffairs.lehigh.edu/content/code-conduct>, and provides for the prompt, adequate, reliable, and impartial investigation and resolution of complaints. For complaints of harassment, discrimination, or other prohibited conduct, students include individuals whose primary relationship with the University is as a student, including all undergraduate and graduate students and those who are functioning as graduate assistants, research assistants, teaching assistants, and teaching fellows.

6.3.2. Complaints Against Non-Administrative Faculty, including all full-time, part-time, and adjunct faculty.

6.3.2.1. Complaints against faculty members are handled by the Equal Opportunity Compliance Coordinator and one additional faculty investigator appointed by the Provost (selected according to Section 6.3.2.2 below).

6.3.2.2. The Provost will appoint up to five (5) faculty investigators for staggered three-year terms. The faculty investigators will be tenured faculty members who have been or will be trained in discrimination/harassment issues and investigation. When a complaint against a faculty member arises, the Provost will, within five (5) calendar days of the filing of the complaint, appoint one of the faculty investigators to work with the Equal Opportunity Compliance Coordinator on that specific case. A faculty investigator will not accept the assignment if they are a member of the same department as the complainant or the respondent, or if there is another conflict of interest.

6.3.2.3. The Equal Opportunity Compliance Coordinator and faculty investigator will complete investigation of the complaint within forty (40) days of the filing of the complaint, absent extenuating or unforeseen

circumstances. The investigation may include interviews with the complainant, respondent, and witnesses or reference people requested by the complainant or the respondent. The Equal Opportunity Compliance Coordinator and faculty investigator reserve the right to determine whom to interview and will conduct each interview in a separate, private session. For any such interview and all other proceedings, the complainant and respondent may each be accompanied by a support person of their choice²⁵, who must be a current full-time employee or student of the University.

6.3.2.4. The Equal Opportunity Compliance Coordinator and faculty investigator will prepare a detailed written report and will share the report with both the complainant and the respondent, who will each have the opportunity to ask questions, request changes and state objections. The EOCC and faculty investigator, after making any modifications they deem necessary or appropriate, will submit the detailed written report, along with a copy of any requested changes or stated objections by either the complainant or respondent, to the Provost within ten (10) calendar days of the conclusion of the investigation. The report will include findings of fact with supporting evidence and a recommended resolution of the complaint, including recommended disciplinary action, supportive measures, or remedies as appropriate. Within ten (10) calendar days of receiving the report, the Provost will review the findings and recommendations, meet with the EOCC and faculty investigator, if necessary to ask questions or seek clarification, determine the final actions to be taken and communicate these directly to the respondent and the complainant, in writing, together with a copy of the detailed written report. The respondent's chair, dean, and the President will also be informed of the outcome. In no case shall any permanent disciplinary action be taken until an appeal (see Section 6.3.7 below), if any, is complete. However, the Provost may, at their discretion, impose at any point in the proceedings temporary work restrictions or other measures designed to separate the respondent and the complainant.

6.3.3. Complaints Against Staff, including all individuals whose primary relationship with the University is as a staff member.

Staff members who are enrolled as part-time students or who work on research grants at the University are considered staff. (See Section 6.3.1 for complaints against gryphons, graduate assistants, research assistants,

²⁵ The Equal Opportunity Compliance Coordinator is prepared to meet with any support persons, upon their request, who are current full-time employees or students of the University in order to review and answer questions about the substance and procedures set forth in this Section.

teaching assistants, and teaching fellows, whose primary relationship with the University is that of student).

6.3.3.1. Complaints against staff are handled by the Equal Opportunity Compliance Coordinator and a designated Human Resources Investigator. The Equal Opportunity Compliance Coordinator will not investigate a complaint if the Equal Opportunity Compliance Coordinator is a member of the same department as the complainant or the respondent, or if there is another conflict of interest. The Human Resources Investigator will not investigate a complaint if they are a member of the same department as the complainant or the respondent, or if there is another conflict of interest. In either of these situations, the President will assign another staff member trained in harassment issues and investigation to the case.

6.3.3.2. The Equal Opportunity Compliance Coordinator and the Human Resources Investigator will complete investigation of the complaint within forty (40) calendar days of the filing of the complaint, absent extenuating or unforeseen circumstances. The investigation may include interviews with the complainant, respondent, and witnesses or reference people requested by the complainant or the respondent. The Equal Opportunity Compliance Coordinator and the Human Resources Investigator reserve the right to determine whom to interview and will conduct each interview in a separate, private session. For any such interview and all other proceedings, the complainant and respondent may each be accompanied by a support person of their choice (see footnote 22 above), who must be a current full-time employee or student of the University.

6.3.3.3. The Equal Opportunity Compliance Coordinator and the Human Resources Investigator will prepare a detailed written report and will share the report with both the complainant and the respondent, who will each have the opportunity to ask questions, request changes and state objections. The EOCC and Human Resources Investigator, after making any modifications they deem necessary or appropriate, will submit the detailed written report, along with a copy of any requested changes or stated objections by either the complainant or respondent, to the appropriate Senior Officer within the respondent's reporting line within ten (10) calendar days of the conclusion of the investigation. The report will include findings of fact with supporting evidence and a recommended resolution of the complaint, including recommended disciplinary action, supportive measures, or remedies as appropriate. Within ten (10) calendar days of receiving the report, the Senior Officer will review the findings and recommendations, meet with the EOCC and Human Resources Investigator, if necessary to ask questions or seek clarification, determine

the final actions to be taken and communicate these directly to the respondent and the complainant, in writing, together with a copy of the detailed written report. The respondent's supervisor and/or manager and the President will also be informed of the outcome. In no case shall any permanent disciplinary action be taken until an appeal (see Section 6.3.7 below), if any, is complete. However, the Senior Officer may, at their discretion, impose at any point in the proceedings temporary work restrictions or other measures designed to separate the respondent and the complainant.

6.3.4. Complaints Against Administrators or Members of the Board of Trustees.

6.3.4.1. Complaints against an academic associate dean, dean, or vice provost should be referred to the Provost. The referral will occur within forty-eight (48) hours of the filing of the complaint. In consultation with the Equal Opportunity Compliance Coordinator, the Provost will select appropriate individuals (internal or external) to investigate and resolve such a complaint. The selected individuals will complete investigation of the complaint within sixty (60) calendar days of the filing of the complaint, absent extenuating or unforeseen circumstances.

6.3.4.2. Complaints against the Provost or other Vice President should be referred to the President. The referral will occur within forty-eight (48) hours of the filing of the complaint. In consultation with the Equal Opportunity Compliance Coordinator, the President will select appropriate individuals (internal or external) to investigate and resolve such a complaint. The selected individuals will complete investigation of the complaint within sixty (60) calendar days of the filing of the complaint, absent extenuating or unforeseen circumstances.

6.3.4.3. Complaints against the President or a member of the Board of Trustees should be referred to the Board of Trustees. The referral will occur within forty-eight (48) hours of the filing of the complaint. The Board of Trustees will select appropriate individuals outside of the University to investigate and resolve such a complaint. The selected individuals will complete investigation of the complaint within sixty calendar (60) days of the filing of the complaint, absent extenuating or unforeseen circumstances.

6.3.4.4. For each of 6.3.4.1, 6.3.4.2 and 6.3.4.3 above, the investigation may include interviews with the complainant, respondent, and witnesses or reference people requested by the complainant or the respondent. The investigators reserve the right to determine whom to interview and will conduct each interview in a separate, private session.

For any such interview and all other proceedings, the complainant and respondent may each be accompanied by a support person of their choice (see footnote 22 above), who must be a current full-time employee or student of the University.

6.3.4.5. The investigators will forward a detailed written report to the Provost (for Section 6.3.4.1), the President (for Section 6.3.4.2) or the Board of Trustees (for Section 6.3.4.3) within ten (10) calendar days of the conclusion of the investigation. The report will include findings of fact with supporting evidence and a recommended resolution of the complaint, including recommended disciplinary action, supportive measures, or remedies as appropriate. Within ten (10) calendar days of receiving the report, the Provost, President or Board of Trustees, as applicable, will determine the appropriate actions to be taken and communicate these directly to the respondent and the complainant, in writing, together with a copy of the detailed written report. In no case shall any permanent disciplinary action be taken until an appeal (see Section 6.3.7 below), if any, is complete. However, the Provost, President or Board of Trustees, as applicable, may, at their discretion, impose at any point in the proceedings temporary work restrictions or other measures designed to separate the respondent and the complainant.

6.3.4. Past Relationship. A complainant's past sexual history generally may not be referenced throughout the process described herein, except that either party (complainant or respondent) may reference a prior sexual relationship between the complainant and the respondent.

6.3.5. Equal Treatment. Complainant and respondent will receive equal treatment in the investigation and resolution of complaints. Both complainant and respondent will receive timely notices and equal access to relevant information, and will have an equal opportunity to participate in the process described in this Section.

6.3.6. Disciplinary Action and Remedies

6.3.6.1. Disciplinary Action. Harassment, discrimination, and other prohibited conduct addressed pursuant to Section 6 of this Policy are serious offenses that will not be tolerated in an educational, working, co-curricular, social, or living environment. Disciplinary action may include one or more of the following, but is not limited to:

- Corrective action or restitution
- Written reprimand
- Requirement to attend training
- Work restrictions

- Suspension
- Demotion with reduction in pay
- Student expulsion
- Termination of employment of University employees²⁶

The range of disciplinary actions available when students are found responsible for conduct prohibited under this Policy is set forth in the [Student Conduct System Policy](#). When appropriate, persons found responsible for harassment, discrimination, or other prohibited conduct under Section 6 may be referred to, or required to participate in, counseling or educational sessions or programs.

6.3.7. Appeals

6.3.7.1. Either the complainant or the respondent can appeal a decision. The appeal will be filed as follows, depending upon whom the complaint is against.

6.3.7.2. When a student is the respondent, the appeal will follow the Student Conduct System process. A student has three (3) business days from the date stated on the outcome letter to submit an appeal. Detailed information about that process is available in the Student Conduct System Policy and on the University's website at: [Student Conduct System Policy](#) or at <http://studentaffairs.lehigh.edu/content/code-conduct>.

6.3.7.3. When a faculty member (other than an adjunct faculty member) is the respondent, the appeal will be filed with the Faculty Personnel Committee.

6.3.7.4. When an adjunct faculty or staff member is the respondent, the appeal will be filed with the President.

6.3.7.5. When an administrator or a member of the Board of Trustees is the respondent, the appeal will be filed with the Board of Trustees, which will select appropriate individuals outside the University to decide the appeal.

6.3.7.6. Written appeals in cases against faculty, staff, administrators, or members of the Board of Trustees must be made within fourteen (14) calendar days of receiving written notice of disciplinary action. The appeal process generally will be completed within twenty-one (21) calendar days of receiving the appeal. If there is a delay in the appeal

²⁶ A move for dismissal of a tenured member of the faculty requires a special procedure involving the Board of Trustees, as per the Rules and Procedures of the Faculty.

process, the reason for the delay will be communicated to the complainant and the respondent. Both will be kept apprised of the status of the appeal.

6.3.7.7. Grounds for appeal are: (1) information is available that was not available at the time of the investigation; (2) the University disciplinary procedures were violated in a way that may have adversely affected the outcome of the case; or (3) the sanction is inappropriate (i.e., unduly lenient or harsh) and not justifiable.

7. WITHDRAWAL OR RESIGNATION WHILE CHARGES ARE PENDING

Students: If a student has an allegation pending for violation of this Policy, the University may place a hold on a student's ability to graduate and/or to receive an official transcript/diploma.

If a student decides not to participate in the resolution process, the process will proceed to resolution without their participation.

If the student respondent withdraws or takes a leave for a specified period of time (e.g., one semester or term), the resolution process may continue remotely and that student respondent will not be permitted to return to the University unless and until the resolution process has been completed and all sanctions (if applicable) have been satisfied. They may also be barred from University property and/or events until the resolution process has been completed and all sanctions (if applicable) have been satisfied.

During the resolution process, the University may put a hold on a respondent's transcript or place a notation on a respondent's transcript or dean's disciplinary certification that a disciplinary matter is pending.

The University will continue to address and remedy any systemic issues, variables that may have contributed to the alleged violation(s), and any ongoing effects of the alleged harassment (including sexual harassment), discrimination, and/or retaliation.

Employees: If an employee respondent resigns with unresolved allegations pending, the resolution process will end, as the University no longer has disciplinary jurisdiction over the resigned employee. However, the University will continue to address and remedy any systemic issues, variables that contributed to the alleged violation(s), and any ongoing effects of the

alleged harassment (including sexual harassment), discrimination, and/or retaliation.

The employee who resigns with unresolved allegations pending is not eligible for rehire with the University, and the records retained by the Title IX Coordinator will reflect that status.

All University responses to future inquiries regarding employment references for that individual will include that the former employee resigned during a pending disciplinary matter.

8. LONG-TERM REMEDIES/OTHER ACTIONS

Following the conclusion of the resolution process, and in addition to any sanctions implemented, the Title IX Coordinator may implement additional long-term remedies or actions with respect to the parties and/or the campus community that are intended to stop the harassment (including sexual harassment), discrimination, and/or retaliation, remedy the effects, and prevent reoccurrence.

These remedies/actions may include one or more of the following, but are not limited to:

- Referral to counseling and health services
- Referral to the Employee Assistance Program
- Education to the individual and/or the community
- Permanent alteration of housing assignments
- Permanent alteration of work arrangements for employees
- Provision of campus safety escorts
- Climate surveys
- Policy modification and/or training
- Provision of transportation accommodations
- Implementation of long-term contact limitations between the parties
- Implementation of adjustments to academic deadlines, course schedules, etc.

At the discretion of the Title IX Coordinator, certain long-term support or measures may also be provided to the parties even if no policy violation is found.

When no policy violation is found, the Title IX Coordinator will address any remedies that may be appropriate for the respondent to ensure no effective denial of educational or employment access.

The University will maintain the privacy of any long-term remedies/actions/measures, provided that the University will comply with any disclosure requirements provided by applicable law, such as the Family Educational Rights and Privacy Act of 1974 applicable to student records, and provided that privacy does not impair the University's ability to provide these services.

9. FAILURE TO COMPLY WITH SANCTIONS AND/OR INTERIM AND LONG-TERM REMEDIES AND/OR RESPONSIVE ACTIONS

All respondents are expected to comply with the assigned sanctions, responsive actions, and/or corrective actions within the timeframe specified by the notice of outcome (and/or any subsequent appeal decision).

Failure to abide by the sanction(s)/action(s) imposed by the date specified, whether by refusal, neglect, or any other reason, may result in additional sanction(s)/action(s), including suspension, expulsion, and/or termination from the University and may be noted on a student's official transcript.

A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX Coordinator.

10. DISABILITIES ACCOMMODATIONS IN THE RESOLUTION PROCESS

The University is committed to providing reasonable accommodations and support to qualified students, employees, or others with disabilities to ensure equal access to the University's resolution processes.

Anyone needing such accommodations or support should contact the following University offices who will review the request and, in consultation with the person requesting the accommodation and the Title IX Coordinator, determine which accommodations are appropriate and necessary for full participation in the process. Individuals should contact the following offices with such requests:

- Disability Support for Students

- Office of Disability Support Services
Williams Hall, Suite 301
610-758-4152
- Disability Support for Staff
 - Human Resources – Linda Lefever
306 S. New Street, Suite 437
610-758-3897
- Disability Support for Faculty
 - Provost's Office - Patricia Mann
Alumni Memorial Building, 2nd Floor
610-758-3813

11. FALSE ALLEGATIONS AND EVIDENCE

If the Equal Opportunity Compliance Coordinator, or designee, or Student Conduct System (in student cases) determines that the report, complaint or formal complaint is intentionally dishonest (as opposed to allegations which, even if erroneous, are made in good faith), the complaint or formal complaint will be dismissed and appropriate disciplinary action will be taken against the complainant.

Additionally, witnesses or parties knowingly providing false evidence, tampering with or destroying evidence after being directed to preserve such evidence, or deliberately misleading an official conducting an investigation may be subject to discipline under University policy.

12. AMNESTY FOR STUDENTS

The University community encourages the reporting of misconduct and crimes by complainants and witnesses. Sometimes, complainants or witnesses are hesitant to report to University officials or participate in grievance processes because they fear that they themselves may be in violation of certain policies, such as underage drinking or use of illicit drugs at the time of the incident. Respondents may hesitate to be forthcoming during the process for the same reasons.

It is in the best interests of the University community that complainants choose to report misconduct to University officials, that witnesses come forward to share what they know, and that all parties be forthcoming during the process.

To encourage reporting and participation in the process, the University maintains an amnesty policy for students. In cases involving students, and in accordance with the Student Conduct System Policy, accessible at <https://studentaffairs.lehigh.edu/content/code-conduct>, this Policy will follow

the Medical Amnesty Policy set forth in Article III of the [Student Conduct System Policy](#).

Amnesty pursuant to this Policy and/or the Student Conduct System Policy does not preclude or prevent action by police or other legal authorities pursuant to relevant state or federal criminal statutes.

13. CONFIDENTIALITY

Requests by a complainant (or individuals acting on behalf of a complainant) that a report involving prohibited conduct under this Policy is not pursued and maintained confidentially will be evaluated by the Equal Opportunity Compliance Coordinator. For more information regarding the evaluation of such requests, see Section 3.3 of this Policy.

In order to ensure the privacy of the individuals involved and the integrity of the investigations and proceedings under this Policy, all individuals who are involved in informal and formal resolution procedures, as a result of being (a) consulted by either the complainant or the respondent, or (b) interviewed by the Equal Opportunity Compliance Coordinator, or designee, are instructed and required to maintain confidentiality of the proceedings. Failure to maintain confidentiality constitutes a violation of this Policy and may result in disciplinary action.

Notwithstanding these precautions, the University cannot and does not guarantee that confidentiality will be maintained by all parties involved.

For information regarding confidential resources, see Section 3.1 of this Policy.

14. RECORDKEEPING

The Equal Opportunity Compliance Coordinator is responsible for maintaining records of reports and complaints of harassment, discrimination, and other conduct prohibited by this Policy. When a report or complaint is pending, each official having a role in the response and resolution process is responsible for handling records appropriate to their role. When the process is complete, the official records relating to the report or complaint will be provided to the Equal Opportunity Compliance Coordinator, who will maintain such records in accordance with University record retention requirements and applicable law. The Equal Opportunity Compliance Coordinator will maintain records of reports, complaints, and incidents of harassment, discrimination, and other prohibited conduct including individuals involved, investigative steps taken, documentation received, participants in the process, and records related to decision-making. Records

related to reports and complaints of harassment, discrimination, and other prohibited conduct will be treated as confidential and shared only on a need-to-know basis or as required by law.

Specifically in regard to cases resolved pursuant to Section 5 of this Policy involving sexual harassment, the University will maintain for a period of seven (7) years²⁷ records of:

1. Each sexual harassment investigation including any determination regarding responsibility and any audio or audiovisual recording or transcript required under federal regulation;
2. Any disciplinary sanctions imposed on the respondent;
3. Any remedies provided to the complainant designed to restore or preserve equal access to the University's education program or activity;
4. Any appeal and the result therefrom;
5. Any Informal Resolution and the result therefrom;
6. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an Informal Resolution process. The University will make these training materials publicly available on the University's website; and
7. Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment, including:
 - a. The basis for all conclusions that the response was not deliberately indifferent;
 - b. Any measures designed to restore or preserve equal access to the University's education program or activity; and
 - c. If no supportive measures were provided to the complainant, document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

²⁷ In certain instances involving cases resolved pursuant to Section 5 of this Policy, the University may retain records longer than seven (7) years, pursuant to its record retention policies and procedures. For example, pursuant to the Office of Student Conduct & Community Expectations's [Records Retention and Release Policy](#), disciplinary records are maintained indefinitely.

The University will also maintain any and all records in accordance with state and federal laws.

15. FILING INTERNALLY VERSUS EXTERNALLY

The complainant may elect to have a complaint handled internally (within the University) in accordance with the procedures described here, and/or may elect to file a formal charge with a federal or state agency authorized by law to investigate such claims.

For students, faculty and staff: Complaints may be filed with the U.S. Department of Education's Office for Civil Rights at:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 515
Philadelphia, PA 19107-3323
Telephone: (215) 656-8541
Facsimile: (215) 656-8605
Email: OCR.Philadelphia@ed.gov

For faculty and staff: Complaints may be filed with the Equal Employment Opportunity Commission or the Pennsylvania Human Relations Commission:

Office for Civil Rights (OCR)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Customer Service Hotline #: (800) 421-3481
Facsimile: (202) 453-6012
TDD#: (877) 521-2172
Email: OCR@ed.gov
Web: <http://www.ed.gov/ocr>

Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127
Telephone: 1-800-669-4000
Facsimile: (215) 440-2606

Pennsylvania Human Relations Commission
Harrisburg Regional Office
333 Market Street, 8th Floor
Harrisburg, PA 17101-2210
Telephone: (717) 787-9780

16. REVISION OF THIS POLICY AND PROCEDURES

This Policy and procedures supersede any previous policy(ies) addressing harassment (including sexual harassment), sexual misconduct, discrimination, and/or retaliation and will be reviewed and updated annually by the Title IX Coordinator. The University reserves the right to make changes to this Policy and document as necessary, and once those changes are posted online, they are in effect.

During the resolution process, the Title IX Coordinator may make minor modifications to procedures that do not materially jeopardize the fairness owed to any party, such as to accommodate summer schedules. The Title IX Coordinator may also vary procedures materially with notice (on the institutional website, with the appropriate effective date identified) upon determining that changes to law or regulation require policy or procedural alterations not reflected in this Policy and procedures.

If government laws or regulations change (or if court decisions of jurisdictional authority binding upon the University alter) legal requirements that impact this Policy, this Policy will be construed to comply with the most recent government regulations or applicable court decisions.

This Policy does not create legally enforceable protections beyond the protection of the background state and federal laws which frame such policies and codes, generally.

APPENDIX A

THE PRINCIPLES OF OUR EQUITABLE COMMUNITY

Lehigh University is first and foremost an educational institution, committed to **developing the future leaders of our changing global society**. Every member of our community has a personal responsibility to acknowledge and practice the following basic principles:

We **affirm the inherent dignity** in all of us, and we maintain an inclusive and equitable community.

We **recognize and celebrate** the richness contributed to our lives by our diverse community.

We **promote mutual understanding** among the members of our community.

We **confront and reject discrimination in all its forms**, including that based on age, color, disability, gender identity, genetic information, marital status, national or ethnic origin, political beliefs, race, religion, sex, sexual orientation, socio-economics, veteran status, or any differences that have been excuses for misunderstanding, dissension, or hatred.

We **affirm academic freedom** within our community and uphold our commitment to the highest standards of **respect, civility, courtesy, and sensitivity** toward every individual.

We **recognize each person's right to think and speak** as dictated by personal belief and to **respectfully** disagree with or counter another's point of view.

We **promote open expression of our individuality and our differences** within the bounds of University policies.

We **acknowledge each person's obligation to the community** of which we have chosen to be a part.

We take **pride** in building and maintaining a culture that is founded on these **principles of unity and respect**.



LEHIGH UNIVERSITY

Appendix B

There are a number of on- and off-campus resources that are available to provide support to individuals who experience or witness behavior prohibited by this Policy.

Confidential Resources

University members who wish to speak with someone about issues relating to prohibited conduct confidentially and without initiating a report or investigation can contact one or more of the following resources:

Lehigh (For Students):

[Counseling & Psychological Services](#)

Johnson Hall, 4th Floor

610-758-3880

incso@lehigh.edu

[Chaplain's Office](#)

The Dialogue Center, 661 Taylor Street

610-758-3877

incha@lehigh.edu

Lehigh (For Faculty and Staff):

[Integrated Behavioral Health](#) (IBH)

Employee Assistance Program

1-800-395-1616

Community (For Faculty, Staff, and Students):

[Crime Victims Council of the Lehigh Valley](#)

801 Hamilton Street, Suite 300

Allentown, PA 18101

610-437-6610

610-437-6611 (24-hour hotline)

[Turning Point of the Lehigh Valley](#)

444 E. Susquehanna Street

Allentown, PA 18103

24-hour hotlines:

1-877-438-4957 (toll free)

610-419-4594 (TTY)

610-437-3369 (local)

Non-Confidential Resources

Additional non-confidential resources, both on- and off-campus, are available to discuss issues relating to prohibited conduct, including the following resources:

Lehigh (For Students):

[Lehigh University Police Department](#)

321 E. Packer Avenue
610-758-4200

[Equal Opportunity Compliance Coordinator / Title IX Coordinator](#)

Alumni Memorial Building – Room 105
610-758-3535
eocc@lehigh.edu

[Office of Student Conduct & Community Expectations](#)

Williams Hall, Suite 320
610-758-4632
hat214@lehigh.edu

[Office of Gender Violence Education & Support](#)

University Center, c109
610-758-1303
ingves@lehigh.edu

[Advocates](#)

610-758-4763

[Office of Diversity, Inclusion, and Equity](#)

Alumni Memorial Building, Suite 201
610-758-2128
vpec@lehigh.edu

[Center for Gender Equity](#)

University Center, c210
610-758-6484
incge@lehigh.edu

[Office of Multicultural Affairs](#)

University Center, c203
610-758-5973
inmca@lehigh.edu

[Pride Center](#)

University Center, c212

610-758-4126
pridecenter@lehigh.edu

[Center for Academic Success](#)
Williams Hall, Suite 301
610-758-5181
intutor@lehigh.edu

[Disability Support Services](#)
Williams Hall, Suite 301
610-758-4152
indss@lehigh.edu

[Health and Wellness Center](#)
Johnson Hall, 3rd Floor
610-758-3870
inluhc@lehigh.edu

[Dean of Students](#)
Williams Hall, Suite 380
610-758-4156
indost@lehigh.edu

[Graduate Life Office](#)
217 W. Packer Avenue
610-758-3648
gradlife@lehigh.edu

Lehigh (For Faculty and Staff):

[Lehigh University Police Department](#)
321 E. Packer Avenue
610-758-4200

[Equal Opportunity Compliance Coordinator / Title IX Coordinator](#)
Alumni Memorial Building – Room 105
610-758-3535
eocc@lehigh.edu

[Human Resources](#)
Linda Lefever
306 S. New Street, Suite 437
610-758-5195
lip3@lehigh.edu

[Ombuds Office](#)
Erica Hoelscher
Zoellner Arts Center, Room 305

610-758-3637
ebh2@lehigh.edu

Anne Meltzer
STEPS Building, Room 596
610-758-3673
ameltzer@lehigh.edu

[Office of Diversity, Inclusion, and Equity](#)
Alumni Memorial Building, Suite 201
610-758-2128
vpec@lehigh.edu

[Center for Gender Equity](#)
University Center, c209/210
610-758-6484
incge@lehigh.edu

[Office of Multicultural Affairs](#)
University Center, c203
610-758-5973
inmca@lehigh.edu

[Pride Center](#)
University Center, c212
610-758-4126
pridecenter@lehigh.edu

[Disability Support for Staff](#)
Human Resources
Linda Lefever
306 S. New Street, Suite 437
610-758-5195

[Disability Support for Faculty](#)
Provost's Office
Patricia Mann
Alumni Memorial Building, 2nd Floor
610-758-3813

Community:

[Bethlehem Police Department](#)
610-865-7187 (non-emergencies)
From University Phone: 9-911 (emergencies)
From Non-University Phone: 911 (emergencies)

[Lehigh Valley Hospital - Muhlenberg](#)

2545 Schoenersville Road
Bethlehem, PA 18017
888-402-LVHN (5846) (General)
610-402-8000 (Patient Information)
484-884-2521 (Emergency Department)

[St. Luke's University Hospital - Bethlehem](#)

801 Ostrum Street
Bethlehem, PA 18015
484-526-4000
1-8666-STLUKES (785-8537)

State:

[Pennsylvania Coalition Against Rape \(PCAR\)](#)

1-888-772-7227 (toll free hotline)

[Pennsylvania Coalition Against Domestic Violence \(PCADV\)](#)

1-800-799-SAFE (7233)
TTY: 1-800-553-2508

National:

[National Sexual Violence Resource Center \(NSVRC\)](#)

1-877-739-3895
TTY: 1-717-909-0715

[National Resource Center on Domestic Violence \(NRCDV\)](#)

1-800-799-7233
TTY: 1-800-787-3224

[Rape, Abuse, and Incest National Network \(RAINN\)](#)

1-888-656-HOPE (4673)

Appendix C

Reporting Poster for Students

**I'M A STUDENT AND I OR SOMEONE I KNOW HAS EXPERIENCED
OR WITNESSED SEXUAL ASSAULT, SEXUAL EXPLOITATION,
INTIMATE PARTNER ABUSE, STALKING, OR SEXUAL HARASSMENT.**

WHAT ARE MY OPTIONS?

LEHIGH UNIVERSITY POLICE DEPARTMENT

As an accredited police department, University police officers can exercise full police powers on campus. LUPD is available 24/7 throughout the year. If an individual feels unsafe, has experienced or witnessed these types of behaviors or would like to file a report, please contact LUPD. If a report is filed, LUPD will take appropriate steps in response to the report. Please contact LUPD at:

321 EAST PACKER AVENUE
610-758-4200

CONFIDENTIAL RESOURCES

Students who wish to talk about gender violence issues confidentially and without initiating a report or investigation can contact the following resources:

**Lehigh University Counseling
& Psychological Services**
JOHNSON HALL, 4TH FLOOR
610-758-3880

**Lehigh University
Chaplain's Office**
THE DIALOGUE CENTER
661 TAYLOR STREET
610-758-3877

Turning Point of the Lehigh Valley
444 E. SUSQUEHANNA STREET
ALLENTOWN, PA 18103
610-437-3369

**Crime Victims Council of
the Lehigh Valley**
801 HAMILTON STREET, SUITE 300
ALLENTOWN, PA 18101
610-437-6611

UNIVERSITY RESOURCES

You have the right to pursue a University investigation of a violation of University policy and to file a complaint with the Equal Opportunity Compliance Coordinator. You can also contact these offices with any questions you have about Title IX or University policies or procedures regarding gender violence or to discuss available options or resources.

**Equal Opportunity Compliance
Coordinator/Title IX Coordinator**
KAREN A. SALVEMINI
ALUMNI MEMORIAL BUILDING
610-758-3535

**Office of Student Conduct &
Community Expectations**
CHRIS MULVIHILL, HOLLY TAYLOR
WILLIAMS HALL, SUITE 320
610-758-4632

RESOURCES & SUPPORT

There are numerous offices and organizations both on and off campus that are available to provide resources and support for student survivors of gender violence, including:

**Office of Gender Violence
Education & Support**
UNIVERSITY CENTER, C108
610-758-1303

Office of Academic Support
WILLIAMS HALL, SUITE 390
610-758-4149

Dean of Students
WILLIAMS HALL, SUITE 380
610-758-4156

**Lehigh Valley Hospital -
Muhlenberg**
2545 SCHOENERSVILLE RD
BETHLEHEM, PA 18017
484-884-2200

**Gender Violence Support
Advocates**
24-HOUR HOTLINE
610-758-4763

Health & Wellness Center
JOHNSON HALL, 3RD FLOOR
610-758-3870

**Graduate Student
Life Office**
217 W. PACKER AVE.
610-758-3648

St. Luke's University Hospital
810 OSTRUM ST
BETHLEHEM, PA 18015
484-526-4000



Appendix D

Reporting Poster for Employees

I AM AN EMPLOYEE AND I HAVE RECEIVED A DISCLOSURE OF HARASSMENT, DISCRIMINATION, SEXUAL ASSAULT, SEXUAL EXPLOITATION, INTIMATE PARTNER ABUSE, OR STALKING.

WHERE SHOULD I REPORT?

CONFIDENTIAL RESOURCES

Before a disclosure is made, an individual who wishes to talk about these issues confidentially and without initiating a report or investigation can contact the following resources:

STUDENTS:

**Lehigh University Counseling
& Psychological Services**
JOHNSON HALL, 4TH FLOOR
610-758-3880

**Lehigh University
Chaplain's Office**
THE DIALOGUE CENTER
661 TAYLOR STREET
610-758-3877

FACULTY/STAFF:

**Integrated Behavioral
Health (IBH)**
EMPLOYEE ASSISTANCE
PROGRAM
1-800-395-1616

ALL:

Turning Point of the Lehigh Valley
444 E. SUSQUEHANNA STREET
ALLENTOWN, PA 18103
610-437-3369

**Crime Victims Council
of the Lehigh Valley**
801 HAMILTON STREET, SUITE 300
ALLENTOWN, PA 18101
610-437-6611

UNIVERSITY RESOURCES

An individual has the right to pursue a University investigation of a violation of University policy and to file a complaint with the EOCC. You can also contact the EOCC with any questions you have about University policies or procedures regarding these issues or to discuss available options and resources.

**Equal Opportunity Compliance
Coordinator/TITLE IX Coordinator**
KARENA A. SALVEMINI
ALUMNI MEMORIAL BUILDING
610-758-3535

LEHIGH UNIVERSITY POLICE DEPARTMENT

As an accredited police department, University police officers can exercise full police powers on campus. LUPD is available 24/7 throughout the year. If an individual feels unsafe, has experienced or witnessed these types of behaviors or would like to file a report, please contact LUPD. If a report is filed, LUPD will take appropriate steps in response to the report.

Please contact LUPD at:
321 EAST PACKER AVENUE
610-758-4200

QUESTIONS?

Equal Opportunity Compliance Coordinator
ALUMNI MEMORIAL BUILDING | 610-758-3535

Office of Gender Violence Education & Support
UNIVERSITY CENTER, C109 | 610-758-1303

ONLINE REPORTING FORMS

You may also contact both LUPD and the EOCC simultaneously by completing the applicable online reporting forms:

Gender Violence Reporting Form:
[GO.LEHIGH.EDU/GENDERVIOLENCEREPORT](https://go.lehigh.edu/genderviolencereport)

**Discrimination, Harassment, Retaliation or
Bias Incident Reporting Form:**
[GO.LEHIGH.EDU/HARASSMENT](https://go.lehigh.edu/harassment)

